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THE

# JUDGES OF ENGLAND;

WITH

## SKETCHES OF THEIR LIVES,

AND

MISCELLANEOUS NOTICES

CONNECTED WITH

## THE COURTS AT WESTMINSTER,

FROM THE CONQUEST TO THE PRESENT TIME.

BY EDWARD FOSS, F.S.A.

OF THE INNER TEMPLE.

VOL. VIII.

CONTAINING THE REIGNS OF

GEORGE I., GEORGE II., AND GEORGE III.

1714—1820.

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# THE EIGHTH VOLUME.


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THE

# JUDGES OF ENGLAND.

## GEORGE I.

Reigned 12 years, 10 months, and 10 days; from August 1, 1714, to June 11, 1727.

### SURVEY OF THE REIGN.

One of the most important events connected with the law that distinguished the reign of George I., was the impeachment of Lord Chancellor Macclesfield and the reform which resulted from it. The principal offence with which the earl was charged was one which had been committed by his predecessors for many generations. The sale of the lucrative offices of the Court of Chancery was a subject of notoriety, and was considered as part of the legitimate profit of its heads, and had even been in some sort recognised in parliament. Roger North (Life, 226) notices the objection which his brother Lord Guilford had to the practice in the reign of Charles II., and the reasons which induced him "to follow the steps of his predecessors."

The chiefs of the other courts also claimed and exercised the same privilege with regard to offices in their gift. For examples it is not necessary to go beyond the Revolution, as it is certain that the practice was not first introduced at that æra, but that the judges then appointed merely pursued a system long established. And, indeed, it cannot be a

matter of much surprise, that when in the times of the first James and the first Charles (to go no higher) such large sums were exacted as the price of the highest judicial offices, the purchasers should consider that they were justified in reimbursing themselves by turning the offices that were within their own gift to similar account. Since the Revolution we have Luttrell's testimony that the practice prevailed, and that the price was well understood. He mentions that a philazer's place had "fallen" to Chief Justice Treby in 1695, and another in 1696, "worth 1000*l.*;" and in the latter year he records the death of one of the six clerks, "which," he says "being in the disposal of Sir John Trevor, the Master of the Rolls, will be worth to him 5000 guineas."[1]

By the evidence produced on Lord Macclesfield's trial it appears that Lord Harcourt received 250*l.* for the appointment of clerk of the custodies; and that two of the masters in Chancery gave him, one 700*l.*, and the other 800*l.*, for their places; and that from a third, Lord Cowper, although he had abolished the equally pernicious custom of New Year's gifts, received a similar sum.[2] These three masters were the only surviving ones who could give direct evidence; and indirect evidence of the prices given by their predecessors was not allowed, though no denial of the previous long established practice was attempted. The office of master in Chancery was extremely profitable, not only from the fees to which the holder of it was entitled, but from the interest he made by the speculative use of the suitors' money placed under the orders of the Court in his hands; the practice being for each master in turn to attend the Court, and to have the funds involved in the causes in dispute on the days of his attendance intrusted to his care. These

[1] Luttrell, iii. 535, iv. 81, 159.

[2] State Trials, xvi. 1140, 1151, 1152, 1154.

sums in the progress of time largely increased, so that each master became the banker of the Court to an immense amount, no less than 120,000*l.* being delivered up at the death of one of them to his successor. The profits of the place being therefore proportionably large, the price demanded for it was naturally enhanced, and there is proof that one retiring master would not accept less for it than 6000*l.* besides the "present" of 1500 guineas which the purchaser had to offer to the chancellor for his admission; and that when a master died Lord Chancellor Macclesfield received 5000 guineas for the new appointment. The inevitable consequence of this vicious system was that, as soon as the funds entrusted to the retiring or the deceased master were transferred into the new master's possession, the first thing he would do would be to reimburse himself out of them the sum he had paid or borrowed to pay for the place: so that had the suitors' money been all called in, the assets of many of the twelve masters would have been deficient at least in that amount.

It is probable that this arrangement, bad as it was, would never have been interrupted, and that these twelve bankers would still have retained the use of the funds had they all been prudent and honest. But one of them, partaking of the madness of the age, had suffered so largely in the South Sea scheme, that on the failure of his banker, who had been guilty of the same imprudence and to whom he had entrusted a large balance, he was obliged to abscond. Lord Macclesfield was charged not only with being cognisant of these practices and with endeavouring to patch up and conceal the deficiency of the absconding master, but also with extortionately increasing the price of the place, and appointing persons willing to pay the sum demanded, who were not sufficiently responsible.

Whether the latter charge was substantiated may be a

question, but be his condemnation just or not, the result was highly beneficial. The twelve masters were ordered to deposit all the funds and securities in their hands in the Bank of England; those who were deficient were made to dispose of their private estates and effects; the ultimate deficiency, amounting to more than 51,000*l.* was provided for by an additional stamp duty; and by Statute 12 George I. c. 32, the suitors' cash being then and for ever after secured in the Bank, the whole accounts were placed under the direction of a new officer called the accountant-general, who was altogether interdicted from meddling with the money. This office has ever since been filled by one of the masters, who is reckoned as one of their number.

## LORD CHANCELLORS.

SIMON, LORD HARCOURT, continued to exercise the functions of Lord Chancellor till September 21, 1714, the day after King George's entry into London; when the Great Seal was taken away from him and delivered to

WILLIAM, LORD COWPER, on the next day with the title of Lord Chancellor, which he had held for some time in the reign of Queen Anne. On his resignation three years and a half afterwards,

SIR ROBERT TRACY, Just. C.P.,

SIR JOHN PRATT, Just. K.B., and

SIR JAMES MONTAGU, B.E. were appointed lords commissioners of the Great Seal on April 18, 1718. They held it for little more than three weeks, when

THOMAS, LORD PARKER, lord chief justice of the King's Bench, was made Lord Chancellor on May 12, 1718. He was created Earl of Macclesfield on November 5, 1721; and continued to hold his place till January 4, 1725; when he

resigned, and within three weeks was impeached for corruption.

The Great Seal was on January 7, 1725, placed in commission, the commissioners being

Sir Joseph Jekyll, M.R.,

Sir Jeffrey Gilbert, B.E., and

Sir Robert Raymond, Just. K. B. who held it for nearly five months, when

Peter, Lord King, chief justice of the Common Pleas, was appointed Lord Chancellor on June 1, 1725; and held that office during the remainder of the reign.

## Masters of the Rolls.

Sir John Trevor, the master of the rolls in the reign of James II., and again in that of William III., and throughout Queen Anne's reign, was not removed by George I., under whom he filled the office for nearly three years. Soon after his death

Sir Joseph Jekyll was appointed, his patent being dated July 13, 1717, granting him the office for life. He was still in possession of it at the death of the king.

## Masters in Chancery.

| | | | | | | |
|---|---|---|---|---|---|---|
| Sir John Trevor, M. R. | - | - | - | - | 1 to 3 | Geo. I. |
| Thomas Gery | - | - | - | - | 1 to 6 | — |
| William Rogers | - | - | - | - | 1 to 8 | — |
| John Hiccocks | - | - | - | - | 1 to 9 | — |
| James Medlycott | - | - | - | - | 1 to 3 | — |
| William Fellows | - | - | - | - | 1 to 10 | — |
| John Mellor | - | - | - | - | 1 to 6 | — |
| John Orlebar | - | - | - | - | 1 to 7 | — |
| Fleetwood Dormer* | - | - | - | - | 1 to 7 | — |
| Samuel Browning | - | - | - | - | 1 to 6 | — |
| Robert Holford | - | - | - | - | 1 to 13 | — |
| Henry Lovibond | - | - | - | - | 1 to 13 | — |
| John Bennett* | - | - | - | - | 3 to 13 | — |

| | | |
|---|---|---|
| Sir Joseph Jekyll, M. R. | 3 to 13 Geo. I. | |
| Richard Godfrey* | 6 to 13 | — |
| James Lightboun | 6 to 13 | — |
| John Borrett* | 6 to 11 | — |
| Edward Conway* | 7 to 13 | — |
| Henry Edwards, A. G. from July 1726 | 7 to 13 | — |
| William Kynaston* | 8 to 13 | — |
| Thomas Bennett* | 9 to 13 | — |
| Francis Elde | 10 to 13 | — |
| Mark Thurston | 11 to 13 | — |
| Francis Cudworth Masham, A. G. from Dec. 1726 | 13 | — |
| Samuel Burroughs | 13 | — |
| Robert Yard | 13 | — |

Those marked * were found deficient. Dormer had absconded and Borrett had died insolvent. They, together with Godfrey, Conway, and Kynaston, are mentioned in the Act 12 George I., c. 33, as, after all that could be produced from their estates and effects, still debtors for the suitors' money to the amount of 51,851*l.* 19*s.* 11¼*d.*, to be provided for by the additional stamp duty thereby imposed.

The office of accountant-general was first appointed by Stat. 12 Geo. I., c. 32, enacted in consequence of the exposures on the impeachment of Lord Chancellor Macclesfield.

## CHIEF JUSTICES OF THE KING'S BENCH.

SIR THOMAS PARKER'S patent as chief justice was renewed on the accession of George I.; and he was created a baron on March 10, 1616, by the title of Lord Parker of Macclesfield. On his being made lord chancellor he was succeeded by

SIR JOHN PRATT, one of the justices of the same court, on May 15, 1718; on whose death, nearly six years after,

SIR ROBERT RAYMOND, another of the judges of that court, was appointed chief justice on March 2, 1725, and so continued till the end of the reign.

## Justices of the King's Bench.

| | | |
|---|---|---|
| I. 1714. | Aug. | Littleton Powys, Robert Eyre, Thomas Powys, } the judges at Queen Anne's death. |
| | Nov. 22. | John Pratt, vice T. Powys. |
| IV. 1718. | May 15. | John Fortescue Aland, vice J. Pratt. |
| X. 1724. | Feb. 1. | Robert Raymond, vice R. Eyre. |
| XI. 1725. | March 16. | James Reynolds, vice R. Raymond. |
| XIII. 1726. | Nov. 3. | Edmund Probyn, vice L. Powys. |

The judges of the King's Bench at the end of the reign were

Sir Robert Raymond, chief justice,

Sir John Fortescue Aland, James Reynolds, Esq.,

Sir Edmund Probyn.

## Chief Justices of the Common Pleas.

Thomas, Lord Trevor, the chief justice at the time of Queen Anne's death, remained so till nearly a month after King George arrived from Hanover, when on October 14, 1714, he was superseded.

Sir Peter King, recorder of London, was sworn chief justice on November 22, 1714. After presiding more than ten years, he was made lord chancellor, having been previously created Lord King of Ockham; and

Sir Robert Eyre, chief baron of the Exchequer, succeeded him as chief justice of this court on June 3, 1725.

## Judges of the Common Pleas.

| | | |
|---|---|---|
| I. 1714. | Aug. | John Blencowe, Robert Tracy, Robert Dormer, } were continued in office. |
| VII. 1722. | June. | Alexander Denton, vice J. Blencowe. |
| XIII. 1726. | Oct. 16. | Robert Price, vice R. Dormer. |
| | Nov. 4. | Francis Page, vice R. Tracy. |

The judges of this court at the end of the reign were

Sir Robert Eyre, chief justice.

Robert Price, Esq., Sir Francis Page,

Alexander Denton, Esq.

## CHIEF BARONS OF THE EXCHEQUER.

At the accession of George I. the place of lord chief baron was vacant by the death of Sir Edward Ward, a fortnight before the queen's demise.

SIR SAMUEL DODD was sworn chief baron on November 22, 1714, but only survived the appointment a few months, when

SIR THOMAS BURY, one of the puisne barons, was raised to the presidency of the court on June 10, 1716. On his death he was succeeded by

SIR JAMES MONTAGU, also one of the puisne barons, on May 4, 1722. He died when he had enjoyed the office little more than a year; and in his place

SIR ROBERT EYRE, a judge of the King's Bench, was appointed on November 16, 1723; but being promoted in the next year to be chief justice of the Common Pleas,

SIR JEFFREY GILBERT, one of the barons of the court, was raised to its head on June 3, 1725. Fifteen months after he died, and

SIR THOMAS PENGELLY, the king's prime serjeant, became the sixth chief baron in this short reign on October 16, 1726, and held the office at the end of it.

## BARONS OF THE EXCHEQUER.

| | | |
|---|---|---|
| I. 1714. Aug. | Thomas Bury,<br>Robert Price,<br>John Smith,<br>William Banister,<br>William Simpson, cursitor, | the barons at the king's accession. |
| Nov. 22. | James Montagu, vice W. Banister. | |
| III. 1717. Jan. 24. | John Fortescue Aland, vice T. Bury. | |
| IV. 1718. May 15. | Francis Page, vice J. F. Aland. | |
| VIII. 1722. May 24. | Jeffrey Gilbert, vice J. Montagu. | |
| XI. 1725. June 1. | Bernard Hale, vice J. Gilbert. | |
| XII. 1726. May. | William Thomson, cursitor, vice W. Simpson. | |

XIII. 1726. Nov. 7. Lawrence Carter, vice R. Price.
John Comyns, vice F. Page.

The four barons at the end of the reign were
Sir Thomas Pengelly, chief baron,
Sir Bernard Hale, Sir Lawrence Carter,
Sir John Comyns.

The cursitor baron was Sir William Thomson.

## Court of Chancery.

| A.R. | A.D. | Lord Chancellors, &c. | Masters of the Rolls. |
|---|---|---|---|
| 1 | 1714. Aug. | Simon, Lord Harcourt | Sir John Trevor. |
| | Sept. 22 | William, Lord Cowper | — |
| 3 | 1717. July 13 | — | Sir Joseph Jekyll. |
| 4 | 1718. April 18 | Sir Robert Tracy, Sir John Pratt, Sir James Montagu } *Commissioners* | — |
| | May 12 | Thomas, Lord Parker | — |
| 8 | 1721. Nov 5 | *cr.* Earl of Macclesfield. | — |
| 11 | 1725. Jan. 7 | Sir Joseph Jekyll, Sir Jeffrey Gilbert, Sir Robert Raymond } *Commissioners* | — |
| | June 1 | Peter, Lord King | — |

## Court of King's Bench.

| A.R. | A.D. | Chief Justices. | Judges of the King's Bench. | | |
|---|---|---|---|---|---|
| 1 | 1714. Aug. | Thomas Parker | Littleton Powys | Robert Eyre | Thomas Powys. |
| | Nov. 22 | — | — | — | John Pratt. |
| 2 | 1716. Mar. 10 | *cr.* Lord Parker | — | — | — |
| 4 | 1718. May 12 | *made* Lord Ch. | — | — | — |
| | 15 | John Pratt | — | — | J. Fortescue Aland. |
| 10 | 1724. Feb. 1 | — | — | Robert Raymond | — |
| 11 | 1725. March 2 | Robert Raymond | — | *made* Ch. K. B. | — |
| | 16 | — | — | James Reynolds | — |
| 13 | 1726. Nov. 3 | — | Edmund Probyn | — | — |

## Court of Common Pleas.

| A.R. | A.D. | Chief Justices. | Judges of the Common Pleas. | | |
|---|---|---|---|---|---|
| 1 | 1714. Aug. | Lord Trevor | John Blencowe | Robert Tracy | Robert Dormer. |
| | Oct. 14 | Peter King | — | — | — |
| 8 | 1722. June | — | Alexander Denton | — | — |
| 11 | 1725. June 3 | Robert Eyre | — | — | — |
| 13 | 1726. Oct. 16 | — | — | — | Robert Price. |
| | Nov. 4 | — | — | Francis Page | — |

COURT OF EXCHEQUER.

| A.R. | A.D. | CHIEF BARONS. | BARONS OF THE EXCHEQUER. | | |
|---|---|---|---|---|---|
| 1 | 1714. Aug. | | John Smith* Thomas Bury | Robert Price | William Banister. |
| | Nov. 22 | Samuel Dodd | — | — | James Montagu. |
| 2 | 1716. June 10 | Thomas Bury | *made* B. E. | — | — |
| 3 | 1717. Jan. 24 | — | J. Fortescue Aland | — | — |
| 4 | 1718. May 15 | — | Francis Page | — | — |
| 8 | 1722. May 4 | James Montagu | — | — | Jeffrey Gilbert. |
| 10 | 1723. Nov. 16 | Robert Eyre | — | — | — |
| 11 | 1725. June 3 | Jeffrey Gilbert | — | — | Bernard Hale. |
| 13 | 1726. Oct. 16 | Thomas Pengelly | — | — | — |
| | Nov. 7 | — | John Comyns | Lawrence Carter | — |

* John Smith continued nominally a baron here till June 1726, though chief baron of the Exchequer in Scotland.
The cursitor barons were William Simpson till May 23, 1726, and afterwards William Thomson.

The salaries of the judges were increased at the commencement of this reign from 1000*l.* to 2000*l.* for the three chiefs, and from 1000*l.* to 1500*l.* for all the others.[1]

To the profligate Duke of Wharton are attributed the following satirical lines, written while Lord Parker, afterwards Earl of Macclesfield, was lord chancellor, which profess to describe some of the peculiar characteristics of the judges :—

When Parker shall pronounce upright decrees,
And Hungerford refuse his double fees;
When Pratt with justice shall dispense the laws,
And King once partially decide a cause;
When Tracy's generous soul shall swell with pride,
And Eyre his haughtiness shall lay aside;
When good old Price shall trim and truckle under,
And Powys sum a cause without a blunder;
When Page an uncorrupted finger shews,
And Fortescue deserves another nose—
Then will I cease my Cœlia to adore,
And think of love and politics no more.[2]

ATTORNEY-GENERALS.

| | | |
|---|---|---|
| I. | 1714. August. | Edward Northey. |
| IV. | 1718. March 18. | Nicholas Lechmere. |
| VI. | 1720. May 7. | Robert Raymond, made Just. K. B. |
| X. | 1724. Feb. 1. | Philip Yorke. |

[1] Lord Raymond, 1319. [2] Wharton's Works (1740), ii. App.

## Solicitor-Generals.

| | | |
|---|---|---|
| I. 1714. | August. | Robert Raymond. |
| | Oct. 14. | Nicholas Lechmere. |
| II. 1715. | Dec. 6. | John Fortescue Aland, made B. E. |
| III. 1717. | Jan. 24. | William Thomson. |
| IV. 1720. | March 23. | Philip Yorke, made attorney-general. |
| X. 1724. | Feb. 1. | Clement Wearg. |
| XII. 1726. | April 23. | Charles Talbot. |

## Serjeants-at-Law.

The added initial marks the inn of court to which they belonged; and these who became judges have a * prefixed.

| | | |
|---|---|---|
| I. 1714. | *Peter King (I.) | *James Montagu (L.) |
| | *Samuel Dodd (I.) | |
| | Motto, "Plus quam speravimus." | |
| 1715. | *Francis Page (I.) | William Brainthwaite (M.) |
| | William Erle (M.) | John Darnell (M.) |
| | Henry Stevens (I.) | John Benfield (I.) |
| | John Cuthbert (M.) | William Salkeld (M.) |
| | William Brydges (M.) | Edward Millar (L.) |
| | Thomas Hanbury (M.) | Nathaniel Mead (M.) |
| | Edward Whitaker (M.) | *James Reynolds (L.) |
| | Motto, "Omnia tuta vides." | |
| III. 1717. | *John Fortescue Aland (I.) | |
| VIII. 1722. | *Jeffrey Gilbert (I.) | *Alexander Denton (M.) |
| X. 1724. | *Robert Raymond (G.) | *Edmund Probyn (M.) |
| | Motto, "Salvâ Libertate potens." | |
| | *Lawrence Carter (L.) | Richard Cummyns. |
| | Thomas Morley. | Williams Hawkins. |
| | Fettiplace Nott. | *William Chapple. |
| | Joseph Girdler. | James Sheppard. |
| | John Baines. | Giles Eyre. |
| | John Raby. | Matthew Skinner. |
| XII. 1725. | *Bernard Hale. | |

## King's Serjeants.

| | | |
|---|---|---|
| I. 1714. | *Joseph Jekyll (M.) | *Thomas Powys (L.) |
| 1715. | *Francis Page (I.) | John Cheshire (I.) |
| V. 1719. | *Thomas Pengelly (I.) | |
| X. 1724. | *Lawrence Carter (L.) | |

## KING'S COUNSEL.

No regular lists of the king's counsel occur in this reign; but mention is made of Winnington Jeffreys and John Willes.

Sir John Cheshire who was made a serjeant in 1706, and queen's serjeant in 1711, and in 1727 became the king's premier serjeant, has left a fee-book commencing in Michaelmas Term 1719: by which it appears that for the next six years his fees amounted on an average to 3241*l.* per annum. He then, being sixty-three years old, reduced his practice and confined himself to the Court of Common Pleas, and during the next six years his fees averaged 1320*l.* a year.

The fees of the counsel's clerks form a great contrast with those that are now demanded, being only threepence on a fee of half a guinea, sixpence for a guinea, and one shilling for two guineas.[1]

BARNARD'S INN.—A new lease of this inn for forty years at the rent of 6*l.* 13*s.* 4*d.*, was granted in 1723 by the dean and chapter of Lincoln to this society, who thereupon repaired their hall and rebuilt the bow window of it in what the books describe as "a fashionable manner." They contain also an order to deliver up a bond to Julius Lambert, a member, because he was a practiser in the spiritual court and not at common law.

Westminster Hall was still occupied by tradesmen and women. In the British Museum there is a petition from them, which appears to relate to the coronation of George I., praying that, as their shops are boarded up by the preparations for the ceremony, the leads and outsides of the windows of the west side of the hall may be granted for their use and advantage. The frontispiece of a satirical poem called "Westminster Hall," from a drawing by Gravelot, represents

[1] Notes and Queries, Second Series, vii. 493.

the hall with shops for books, prints, gloves, &c., on each side of the whole length, the judges sitting in open court; and the courts being partitioned off from the body of the hall to the height of eight or nine feet, with side bars on the outside, at which the attorneys moved for their rules of court. The judges must have been occasionally interrupted by the conversation and noise in the hall, and the solemnity of the place in no small degree destroyed by the flirtations with the sempstresses and the shopwomen.[1]

[1] Gent. Mag. Nov. 1853, p. 480; Hone's Ancient Mysteries.

# BIOGRAPHICAL NOTICES

OF

## THE JUDGES UNDER THE REIGN OF GEORGE I.

---

### ALAND, JOHN FORTESCUE.

B. E. 1716. Just. K. B. 1718.

*See* under the reign of George II.

### BANISTER, WILLIAM.

B. E. 1714.

*See* under the Reign of Anne.

The family of William Banister resided at Turk Dean in the County of Gloucester in possession of a very considerable estate. Of his early history we have no information except that he received his legal education at the Middle Temple and that he was honoured with the degree of the coif in 1706. He was then appointed one of the judges of South Wales; from which position he was advanced on the recommendation of Lord Harcourt to be a baron of the Exchequer on June 8, 1713, when he was knighted. He occupied this seat for little more than a year, being superseded on October 14, 1714, not three months after the accession of George I., having been reported by Lord Cowper as "a man not at all qualified for the place." So brief a period of judicial existence can supply little worthy of record.[1]

[1] Atkyns' Gloucestersh. 413; Lord Raymond, 1261, 1318; Lord Campbell's Chancellors, iv. 350.

## BLENCOWE, JOHN.

Just. C. P. 1714.

*See* under the Reigns of William III. and Anne.

The manor of Marston St. Lawrence on the Oxford border of Northamptonshire, where this judge was born in 1642, was granted in the reign of Henry VI. to Thomas Blencowe, whose family originally came from a place of that name in Cumberland. John Blencowe was the eldest son of Thomas Blencowe, the great-great-great-grandson of the grantee, by his second wife, Anne the daughter of the Rev. Dr. Francis Savage of Ripple in Worcestershire. He was educated at Oriel College, Oxford; and having been admitted a student at the Inner Temple in 1663 he was called to the bar by that society in 1673 and elected a bencher in 1687. So successful was he in his practice that he was raised to the degree of the coif in 1689, and was elected member for Brackley in his native county in the parliament of 1690. Though not a prominent debater, he was, during the five years of its continuance, a firm supporter of the government. To his marriage with Anne the daughter of Dr. John Wallis, the celebrated Savilian professor of geometry and "custos archivorum" of Oxford, and the great decipherer of his day, he probably owed in some measure his advancement to the bench. When the professor was offered the deanery of Hereford in 1692 he declined the advancement, but in his letter of refusal he intimated that a favour to his son-in-law would be more acceptable to him. "I have," he said, "a son-in-law, Mr. Serjeant Blencowe of the Inner Temple, a member of the House of Commons, an able lawyer and not inferior to many of those on the bench, of a good life and great integrity, cordial to the Government and serviceable in it."[1]

[1] Baker's Northamptonshire, 639–646; Inner Temple Books.

It was not however till four years afterwards that the recommendation produced the desired effect. In September 1696 the serjeant was constituted a baron of the Exchequer in the place of Sir John Turton removed to the King's Bench; but in Michaelmas Term of the following year he was further promoted to the Court of Common Pleas and knighted. He sat in that court for the next five-and-twenty years; though several memorialists of the judge, as Baker, Noble and others, have represented him as having been removed to the Queen's Bench, for the whole of Queen Anne's reign from 1702 to 1714. Luttrell records that in the beginning of her reign such removal was intended: but it is clear from Lord Raymond's Reports that he was then reappointed to the Common Pleas, and that he was still in that court at the end of it; and he is never mentioned as acting in the Queen's Bench.[1] On the accession of George I. he was replaced in the same seat, and in 1718 he concurred with most of the other judges in favour of the king's prerogative over the marriage and education of the royal family. On June 22, 1722, being then eighty years of age, he obtained permission to resign; and a pension was granted to him for the remainder of his life, which terminated on May 6, 1726. He was buried at Brackley, where there is a monument to his memory.

Sir John is represented as an honest, plain, blunt man, with no brilliancy of genius nor any extraordinary attainments. He outlived his faculties, and conceived that he had discovered the longitude. A story is told of him that once he ordered his servant to lay him out, insisting that he was dead. Indulging his whim the trusty fellow laid him on the carpet; and after some time came to him and observed that he thought his honour was coming to life again; to which the old judge, tired of his position, assented. A proof of

[1] Lord Raymond, 769, 1317; Luttrell, v. 183.

his considerate kindness of heart appears in another anecdote. Lady Blencowe having suggested to him to pension off a hewer of stones who was so old that he spoiled the work he was employed on; he replied, "No, no, let him spoil on; he enjoys a pleasure in thinking that he earns his bread at four-score years and ten; but if you turn him off, he will die of grief."

He left a numerous family. His third son William was taught the mystery of deciphering by his maternal grandfather Dr. Wallis, and was employed to give evidence of the letters written in cipher which were produced on the proceeding against Bishop Atterbury. He was the first person to whom a salary was granted as decipherer to the government, his allowance being 200*l.* a year. The judge's second daughter became the wife of Chief Baron Probyn. The estate of Marston St. Lawrence remains in the possession of Sir John's lineal descendant, to whom I am indebted for many of the foregoing particulars.[1]

## BURY, THOMAS.

B. E. 1714. Ch. B. E. 1716.

*See* under the Reigns of William III. and Anne.

Thomas Bury was the youngest son of Sir William Bury, knight, of Linwood in Lincolnshire. He was born in 1655, and was brought up to the law, entering Gray's Inn in 1668, and called to the bar in 1676. After twenty-four years' practice he obtained the degree of serjeant in 1700, and on January 26 in the next year he was made a baron of the Exchequer on the removal of Sir Littleton Powys to the Court of King's Bench. Speaker Onslow in his notes to Burnet states that it was said that it appeared by Bury's "Book of Accounts" that Lord Keeper Wright had 1,000*l.*

[1] Noble's Cont. of Granger, ii. 180; Nichols' Lit. Anecdotes, ix. 273.

for raising him to the bench. This discreditable story however depends on very slight testimony. The new baron was of course knighted; and sat in that court during the remainder of his life; for fifteen years as a puisne baron, and for six as chief baron, to which he was advanced on June 10, 1716, to supply the vacancy occasioned by the death of Sir Samuel Dodd. In the famous Aylesbury case in the House of Lords he supported the opinion of Chief Justice Holt; when the judgment which he had opposed was reversed. So little further is recorded of Sir Thomas, either in praise or censure, that he may be presumed to have filled his judicial seat with undistinguishing credit.

He died on May 4, 1622, and was buried at Grantham, where there is a handsome monument to his memory. He left no issue, his estate descending to his great-nephew and heir William Bury.[1]

## CARTER, LAWRENCE.

B. E. 1726.

*See* under the reign of George II.

## COMYNS, JOHN.

B. E. 1726.

*See* under the reign of George II.

## COWPER, WILLIAM, EARL COWPER.

LORD CHANCELLOR, 1714.

*See* under the Reign of Anne.

THAT branch of the pedigree of the Cowpers from which the lord chancellor descended held a respectable position among the county families of Sussex in the reign of Edward IV., and then resided at Strode in the parish of Slingfield.

[1] Pat. 12 Will. iii. p. 5; Lord Raymond, 622; Burnet, v. 219 *n.*; Wotton's Baronet. iv. 99; Lord Campbell's Chief Just. ii. 160; Monumental Inscription.

His immediate ancestor became an alderman of London in Elizabeth's time, and had a son, Sir William, who was created a baronet by Charles I., and suffered imprisonment for his loyalty to that unfortunate king. His grandson the second baronet represented Hertford, in the castle of which he resided, in several parliaments of Charles II. and William III., adopting the Whig side in politics and taking a prominent part in the proceedings against James II. when Duke of York. By his wife Sarah, daughter of Sir Samuel Hoiled of London, he had two sons, William and Spencer, both of whom claim a place in these pages; one, the subject of the present sketch, as lord chancellor, and the other as a judge of the Common Pleas in the reign of George II.

William Cowper was born at Hertford Castle about four or five years after the Restoration. There is no other trace of his education than that he was some years at a school at St. Albans till he became a student at the Middle Temple on March 8, 1681–2. His years of probation were divided between his law-books and his pleasures, the latter it is reported claiming the greatest share, but the former evidently not neglected. Whatever were his excesses during that interval it may be presumed that before the end of it he terminated them by his marriage about 1686 with Judith, daughter of Sir Robert Booth, a merchant of London living in Walbrook. He was called to the bar on May 25, 1688, and in the next month he made his *début* in the court of King's Bench. Bred up in the principles of political liberty and with a deep hatred of popery, it is not to be wondered at that his youthful ardour prompted him a few months later to offer his personal aid in resisting the obtuse tyranny of James II. He and his brother Spencer, "with a band of thirty chosen men," joined the Prince of Orange in his march to London: but on the peaceful establishment of William and Mary on the throne he returned to the stage

of his profession; on which whether on the home circuit, or in the courts of Westminster, he soon became a favourite performer. Collins in his "Peerage" says that he was chosen recorder of Colchester, and his familiar letters leave no doubt that he got into considerable practice, both in common law and equity, within the first five years after his call. Before Easter 1694 he had been raised to the position of king's counsel; and by his assistance to the attorney and solicitor general in the prosecutions arising out of the assassination plot in 1696, he conspicuously demonstrated his superiority as an advocate. In the only other state trial in which he appears, that of Lord Mohun for the murder of Richard Coote, the peers recognised the powers which he was afterwards to display on their own benches, and paid him the compliment of naming him particularly to sum up the evidence instead of Sir John Hawles the solicitor-general, whom from his dullness and lowness of voice they could not understand. But as it was contrary to the etiquette of the bar, Sir John was allowed to proceed.[1]

In 1695 he was returned with his father to parliament for Hertford, and tradition reports that on the day of his entrance into the house he spoke three times, and with such effect as to establish his character as an orator and to foreshadow the position he was soon to acquire as the senatorial leader of his party. He represented the same constituency in the parliament of 1698, but in the following year the family interest in the borough was disturbed, and his own professional success materially endangered, by the unfounded charge brought against his brother Spencer of the murder of a young Quaker named Sarah Stout, the extraordinary circumstances attending which will be related in the memoir of the future judge. Notwithstanding the acquittal that followed,

[1] Collins, iv. 166; Lord Raymond's List; State Trials, xii. 1446, xiii. 123, 1055.

the influence of the Cowpers in Hertford was so damaged that they did not venture to stand in the election of 1701; but William was too useful a member not to be immediately provided with a seat in the house, and was accordingly returned for Beeralston in that and the last parliament of William III. and in the first of Queen Anne; at the end of which he ceased to be a commoner. High as was his reputation as an orator, the parliamentary history affords very few examples of his powers. It records only two important speeches delivered by him while in the House of Commons; one on the bill of attainder against Sir John Fenwick in 1696, and the other on the Aylesbury case in 1704. In defending the former, though he may shine as a rhetorician, he falls very far short of the argumentative power manifested by Sir Simon Harcourt in opposing it: but in the latter he has the advantage of his rival in his resistance of the unconstitutional claim of privilege advanced by the commons, and in his support of the right of the subject to seek redress at law against a returning officer for corruptly refusing to receive his legal vote. Other authorities inform us that he defended Lord Somers when impeached, and that in 1704 he was censured by the house for pleading for Lord Halifax.[1]

When the Tory ascendency which had distinguished the first years of the reign of Queen Anne began to be diminished, the removal of Lord Keeper Wright, the weakest and most inefficient man of the party, was determined on. Passing over the attorney and solicitor general, Cowper, at the urgent instigation of the Duchess of Marlborough, was selected from the Whig ranks to hold the Seal. It was delivered to him as lord keeper on October 11, 1705, with an assurance of a retiring pension of 2000*l.* a year. The commencement of his judicial career was illustrated by a noble reform. It had been a custom of long standing for the

[1] Parl. Hist. v. 1007, 1141; vi. 279; Burnet, iv. 480; Luttrell, v. 488.

officers of the court and the members of the bar to present new-year's gifts to the chancellor or keeper; a practice, which if not actual bribery, he considered looked very like it. These he at once refused to receive; and the extent of the sacrifice may be estimated, if not by his wife's calculation that they amounted to nearly 3000*l.*, by Burnet's more probable computation of 1500*l.* With such a proof of his moderation and delicacy it is curious that he did not abolish the equally obnoxious custom of selling the offices in the chancellor's gift. By the evidence on the trial of the Earl of Macclesfield it appears that he received 500*l.* on the admission of a master in chancery. Although it is difficult to perceive the distinction between the two customs, it is clear that he did not consider them as coming under the same category; and that he did not anticipate the evil consequences to which the latter might lead. At the same time he forbad the clerks to demand any extra fee for the performance of their duties. On the death of his father in November 1706 the lord keeper succeeded to the baronetcy; and on the 9th of the same month he was ennobled with the title of Lord Cowper of Wingham.[1]

His first wife having died six months before his elevation, leaving no surviving issue, he married secondly Mary, daughter of John Clavering, Esq. of Chopwell in the bishoprick of Durham. This marriage was for some months kept secret from the world; having been solemnised in September 1706, and not acknowledged till the end of February 1707; when Luttrell in his Diary (vi. 143) states that "The lord keeper, who not long since was privately married to Mrs. Clavering of the bishoprick of Durham, brought her home this day." The reason for the concealment does not appear in the Diary of Lady Cowper which has

[1] Lord Raymond, 1260; Evelyn, iii. 407; Burnet, v. 243; Lord Campbell's Chanc. iv. 299; Luttrell, vi. 111; State Trials, xvi. 1154.

been recently published, though the fact is stated; but it may not improbably be explained by the lord keeper's desire not to disturb the last days of his father, who might perhaps have been disappointed that the selection had not fallen on some other lady to whom he had wished his son to be united.

Lord Cowper was one of the commissioners for the Union with Scotland, and zealously assisted Lord Somers in the negotiations. Upon its being completed the queen invested him on May 4, 1707, with the title of lord high chancellor of Great Britain; and from that time the designation of lord keeper fell into desuetude, only one other possessor of the Great Seal having been so distinguished up to the present day. For the next three years the Whig party retained its influence; but at last by its own folly the popularity it had acquired was transferred to its political opponents. The suicidal error of the Whigs was the unwise and useless measure of the impeachment of Dr. Sacheverell for a sermon, which, if it had been unnoticed by the ministry, would probably have fallen dead from the press. The prosecution stirred up all the dormant feelings of the people, revived the cry of "The church in danger," and so strengthened the efforts of the Tory advisers of the queen that the Whig members of the government were soon after dismissed. The Duke of Marlborough had during the contest ambitiously demanded to be made captain-general for life: but Lord Cowper, though united with him in politics, represented to the queen that such an appointment would be highly unconstitutional; and by his advice the application was rejected. In the new arrangement Harley the Tory leader admiring Lord Cowper's honesty and talents, and conscious of his popularity, was desirous of retaining him in his post as lord chancellor; but his lordship, though strongly pressed by the queen to keep the Seal, was firm in his resolve to follow the

fate of his colleagues, and resigned on September 23, 1710.[1] He then entered at once into an avowed and it must be acknowledged sometimes a factious opposition to the new ministry; and, according to the fashion then prevalent, occasionally supported his views and answered the attacks of his opponents in the periodical publications of the day. He remained unemployed for the four remaining years of Queen Anne's reign: but on her death he was found to be one of the lords justices nominated by the Elector of Hanover, who showed the tendency of his opinions by selecting them principally from the Whig party. The queen died on August 1, 1714, and King George arriving in England on September 18, immediately formed his ministry and reinstated Lord Cowper in the office of lord chancellor on the 21st.

On his appointment he presented to the king a long paper which he called "An Impartial History of Parties," but which is anything but what its title imports. In professing to describe the two parties, Whig and Tory, into which the people were divided, he artfully depreciates all the acts and principles of the latter, and represents the former as the only one which it would be expedient or safe for his majesty to trust. The antipathy of one faction against the other was at its height; and was exhibited by the vindictive course which the new ministry pursued against the leaders of the party they had supplanted. Lord Cowper took too prominent a part in these proceedings, and it may not be improbable that the extremes to which their animosity was carried, hurried on the Rebellion of 1715. To his energetic representation to the king may perhaps be attributed the speedy suppression of that rebellion. His conduct on the trial of the rebel

[1] Lord Cowper commenced a Diary when he received the Great Seal in 1705, which was privately printed and presented in 1833 by Dr. Hawtrey to the Roxburgh Club. It contains little of general interest, and, with long intervals, terminates with his entering on his second chancellorship in 1714.

lords, when he acted as lord high steward, supported his previous reputation; and when he afterwards presided in the same character at the pretended trial of his old antagonist the Earl of Oxford, it is not unlikely that, his enmity having subsided after two years' reflection, he did not regret the resolution of the commons not to proceed.

During his second chancellorship the Riot Act, the Septennial Bill, and the Mutiny Bill, after violent opposition, became law, and to the passing of them he gave his powerful aid. But though a zealous partisan, a judicious and active statesman, and extremely popular both with the bar and with the public, and apparently with the king himself, intrigues were formed early for his removal. The Diary of Lady Cowper, who held a position in the household of the Princess of Wales, proves that they began as early as October 1715, and continued in the two succeeding years; till at last, though his party remained in power, and without any apparent or publicly acknowledged cause, he resigned the Seal on April 15, 1718; having been on the 18th of the preceding month honoured, as a special mark of the royal approbation, with the additional title of Viscount Fordwich and Earl Cowper. He lived more than four years afterwards, and continued to the last days of his life to take a prominent lead in the debates, and a deep and impartial interest in the various measures proposed on the one side or the other. He died after a few days' illness at his seat at Colne Green on October 10, 1723; and was buried in the parish church of Hertingfordbury. His wife followed him four months afterwards, literally dying of a broken heart.

Of Lord Cowper's character as a statesman there will always be two opinions. The course of his conduct that would excite Burnet's or Wharton's applause, would certainly be decried by Swift and the Tory writers. But all would allow that he was a firm adherent to the principles

he professed, and that those principles tended to civil and religious liberty, and that the motives which guided him were pure and straightforward, though occasionally tainted with a little too much of party prejudice. Of his extraordinary oratorical powers, of the singular gracefulness of his elocution, of the sweetness of his disposition, and of his integrity and impartiality as a judge, there has never been any question; and though the term "Cowper-law" has been sometimes applied to his decisions by those who were arguing against them, it was merely used in joke, in allusion to an indecent expression of the Earl of Wintoun, one of the rebel lords, on his trial before Lord Cowper as lord high steward,—hoping that the lords would do him justice, "and not make use of Cowper (Cupar)-law,—hang a man first, and then judge him."[1] Of his urbanity and consideration for the feelings of others we have a striking instance in his repressing the harsh personal remarks made by a counsel against Richard Cromwell, in a cause to which he was a party, by immediately addressing the old protector, and kindly begging him to take a seat beside him on the bench.

The observations of other writers compel the acknowledgment that his moral character is not so clear. Setting aside the calumnies of Mrs. Manley as totally unworthy of attention, the nickname of Will Bigamy fixed on him by Swift, though not to be considered as proof of his guilt, must be received as an evidence that there were stories afloat that were detrimental to his fame. That they did not apply to his union with his two acknowledged wives is certain, as the first, Miss Booth, had been dead nearly eighteen months when he married Miss Clavering his second and last wife. Mr. Welsby states that he had two children by a Miss Culling of Hertingfordbury Park while very young; but he does not say whether before or after his first marriage.

[1] State Trials, xv. 347.

Swift intimates that the bigamy was perpetrated by convincing the party of the lawfulness of such a union; while Mr. Welsby says that "it was alleged that he deceived her by an informal marriage";[1] so that we are left in doubt which lady was the deceived one. His marriage with Miss Booth took place in 1686 or 1687, when he was two or three-and-twenty, and the intercourse between them seems to have been most affectionate and uninterrupted. If he had two children by Miss Culling before his marriage with Miss Booth, his connection with her must have commenced some time before he was of age; which, together with the fact that no contest is alluded to as occurring between the ladies during their lives, conveys a sufficient discredit, if not a complete contradiction, to the slander. It probably arose from the notoriety of his youthful license, and in some measure acquired strength from the mysterious concealment of his marriage with his last wife. To that lady, who was a very superior and amiable person, he was evidently most devotedly attached; and no one has ventured to impugn the correctness of his conduct during their nuptial intercourse, nor indeed to have laid any charge on his morals since he entered into public life.

Though not particularly eminent for classical learning, he was well versed in the literature of his country, and was a generous patron to its professors. John Hughes, the author of many popular pieces in verse and prose, owed much to his bounty and encouragement; which he repaid by a glowing preamble to the patent of the earl's last peerage, and by a couple of panegyrical odes. The Whig poet Ambrose Philips also devoted some graceful lines to his memory. Among his prose eulogists were Burnet, Steele, Lords Chesterfield and Wharton, and a host of other minor authors. Even Swift himself, in his "Four Last Years of Queen Anne,"

[1] Examiner, No. 22; Welsby's Lives, 136.

is compelled to speak of him with as much praise as his crabbed nature and party prejudices would allow.

The earl's London residences were in Russell Street and Powis House, Lincoln's Inn Fields, and subsequently in Great George Street; and his country one was at a spot called Colne Green in the parish of Hertingfordbury, the manor of which he had purchased. The house which he built there was pulled down in the beginning of this century, and replaced by the present stately mansion of Penshanger, where his successors flourish. The lord chancellor left two sons, from the eldest of whom, William, the present earl lineally descends. The second son, Spencer, became dean of Durham.[1]

## DENTON, ALEXANDER.

JUST. C. P. 1722.

*See* under the reign of George II.

## DODD, SAMUEL.

CH. B. E. 1714.

SAMUEL DODD was the first of the six chief barons of the Exchequer during the short reign of George I., which seems to have been peculiarly fatal to those officers, since no less than four of them died in the thirteen years of its continuance. He was descended from a Cheshire family. There is a monument to his grandfather and grandmother, Randall and Elizabeth Dod (both aged nearly ninety) at Little Budworth in that county, erected by their son Ralph Dod, who describes himself "Civis et Pellio Londini." Samuel Dodd was the son of Ralph and was born about 1652. The Inner Temple was his school of law, which he entered in 1670, and was called to the bar in 1679, and admitted to the bench of that society in 1700. His progress was very successful;

[1] Collins' Peerage, iv. 162; Lives, by Mr. Welsby and Lord Campbell.

but the only public trial in which he is recorded as being engaged is the ill-judged impeachment of Dr. Sacheverell in 1710, where he appeared as counsel for the doctor, and pleaded so manfully and ably, leading the defence of the three last articles, that he obtained a great amount of popularity among the high-church party.

On the accession of George I. there was a vacancy in the office of lord chief baron. Mr. Dodd being nominated to supply it was knighted on October 11, 1714, made a serjeant on the 26th, and sworn into office on November 22. He had very little opportunity of exhibiting his judicial powers, since he occupied his seat barely seventeen months. He died on April 14, 1716, and was buried in the Temple Church, where there is a monumental inscription giving a very favourable account of his character. He left a manuscript volume of Reports, which is preserved among the Hargrave Collection in the British Museum.

By his wife Elizabeth, sister and coheir of Sir Robert Croke of Chequers, Bucks, he had two sons, who both died without issue. Surviving her husband six years Lady Dodd founded the Almshouses at Ellesborough in that county.[1]

## DORMER, ROBERT.

Just. C. P. 1714.

*See* under the Reign of Queen Anne.

Robert Dormer was a descendant of the Buckinghamshire family of that name, a branch of which was ennobled by James I., with the title of Lord Dormer of Wenge, which has flourished ever since. The judge was the grandson of Sir Fleetwood Dormer, and the second son of John Dormer of Ley Grange and Purston, a barrister, by Katherine, daughter of Thomas Woodward of Ripple in Worcestershire.

[1] State Trials, xv. 213, &c.; Lord Raymond, 1319. I am indebted for the pedigree of the family to Robert Phipps Dodd, Esq.

To his elder brother John, Charles II. in 1661 presented a baronetcy, which became extinct in 1726. Robert was born in 1649, and was brought up to his father's profession at Lincoln's Inn, which he entered in May 1669, and was called to the bar in January 1675. He is mentioned as junior counsel for the crown in the trial of Sir Thomas Gascoigne in 1680 on an indictment for high-treason, in which there was an acquittal; and again in the same year on the trial of Mr. Cellier for a libel. He soon afterwards was constituted Chancellor of Durham.

He entered Parliament in 1698 as a member for Aylesbury. In 1701 he represented the county of Bucks, and in 1702, Northallerton. In the great question of Ashby and White he opposed the assumed privilege of the House of Commons, which would have prevented an elector from proceeding at common law for the injury he sustained by the returning officer refusing his vote. Before the next parliament he received his call to the bench, and on January 8, 1706, he kissed hands as a judge of the Common Pleas in the place of Sir Edward Nevil deceased. He sat there nearly one-and-twenty years; and died on September 18, 1726.

His seat was at Arle Court near Cheltenham, a property which came to his grandfather, Sir Fleetwood, by marriage; and he inherited Lee Grange and Purston from his nephew the last baronet, Sir William, whose death preceded his own about six months. His marriage with Mary daughter of Sir Richard Blake of London produced him four daughters only, one of whom married Lord Fortescue of Credan, and another John Parkhurst of Catesby in Northamptonshire, the father of the author of the Greek Lexicon to the New Testament.[1]

[1] Atkyns' Gloucestersh. 174; State Trials, vii. 967, 1188; Parl. Hist. vi. 267; Lord Raymond, 1260, 1420; Luttrell, vi. 15; Gent. Mag. lxx. 615; Burke's Ext. Baronet. 162; Lord Campbell's Chancellors, iv. 306.

## EYRE, ROBERT,

Just. K. B. 1714. Ch. B. E. 1723. Ch. C. P. 1725.

*See* under the reigns of Anne and George II.

## GILBERT, JEFFREY.

B. E. 1722. Com. G. S. 1725. Ch. C. B. 1725.

Of the ancestors or descendants of this eminent jurist there is no certain account. From his arms being somewhat similar to those of Sir Humphrey Gilbert, the noted seaman and discoverer in Queen Elizabeth's reign, he is supposed to have belonged to a branch of that family. His birthplace is said to be Burr's Farm, a manor in the parish of Goudhurst in Kent, which he afterwards purchased. In the baptismal registry there is the following entry, "1674, Oct. 10. Jeffrey son of William Gilbert and Elizabeth his wife." But of these parents nothing is known, except that in his admission to the Inner Temple on December 20, 1692, the father is designated "esquire." He was called to the bar in June 1698; and, judging from the numerous treatises of which he was the author, he must have been indefatigable in his early studies. He commenced taking notes of cases in 1706, when his Equity Reports begin. It is evident that he had established a good legal reputation before 1714, as on November 8 of that year he was appointed one of the judges of the King's Bench in Ireland; from which he was promoted on the 16th of the following June to be chief baron of the Exchequer there. In the year 1719 he and the other barons were committed by the Irish House of Lords to the custody of the usher of the black rod, for granting an injunction in pursuance of an order of the English House of Lords in an appeal from the Irish courts (Annesley *v.* Sherlock.)[1] In the next year an act of parliament was passed putting an

[1] Smyth's Law Off. of Ireland, 109, 143; State Trials, xv. 1301–16

end to the dispute by excluding the Irish House of Lords from any jurisdiction; and though this act was afterwards repealed, the whole question is since settled by the Act of Union. How long the barons remained in custody is not mentioned; but the conduct of the chief was evidently approved by the English Government. His epitaph says that he was offered the Great Seal of Ireland, and that he refused the honour, and resigned his place upon being made a baron of the English Exchequer in May 1722. He was of course previously invested with the coif, but did not receive the honour of knighthood till January 1724. On the resignation of Lord Macclesfield he was nominated second commissioner of the Great Seal, and filled that position from January 7 to June 1, 1725, when Lord King became lord chancellor. On the same day he was promoted to the place of chief baron, on the elevation of Sir Robert Eyre to the presidency of the Common Pleas; which seat he only occupied for fifteen months; being snatched away by an early death on October 14, 1726. This event occurred at Bath; in the abbey church of which he was buried. A tablet to his memory is placed in the Temple Church with an elegant eulogium in Latin of his legal and scientific attainments.

Of all the works that appear under his name, and which exhibit so much learning in almost every variety of legal investigation that they are still constantly referred to as authority, it is extraordinary that none were published in his lifetime. They comprehend Reports in Equity, histories of the courts of Exchequer, Common Pleas and Chancery, and treatises on Uses and Trusts, Tenures, Devises, Ejectments, Distresses, Executions, Rents, Remainders, and Evidence. This latter Blackstone describes as excellent, and calls it "a work which it is impossible to abstract or abridge, without losing some beauty and destroying the chain of the whole." Most of these works were published soon after his death, and many

of them have been several times reprinted, edited by men eminent in the law. He was a fellow of the Royal Society, and was equally famous for his mathematical as for his legal studies; and for his refined taste in polite literature. The modesty he showed in not himself publishing any of his works distinguished him throughout his career; and he was held in as much esteem by his contemporaries, as he is regarded with respect and admiration at the present day.

Though, according to Lord Campbell, Sir Jeffrey had a "scolding wife," her name has not come down to us. That he left no children seems probable, as he bequeathed his manor of Frensham, in Rolvenden in Kent, to Phillips Gybbon, Esq., one of his executors who put up his monument in the Temple Church.[1]

## HALE, BERNARD.

B. E. 1725.

*See* under the reign of George II.

## HARCOURT, SIMON, Lord Harcourt.

Lord Chancellor, 1714.

*See* under the reign of Anne.

Few members of the House of Lords could boast a more ancient lineage or a more noble ancestry than the subject of this sketch, when he entered that august assembly. Directly descended from Bernard, of the royal blood of Saxony, who with other lordships received that of Harcourt near Falaise from Rollo on his settlement in Normandy in the ninth century, and whose descendant Robert de Harcourt accompanied William the Norman on his invasion of England, his family had flourished during the succeeding period in knightly

[1] Lord Raymond, 1380–1420; Noble's Contin. of Granger, iii. 198; Capel Lofft's Life, prefixed to the Law of Evidence; Hasted's Kent, vii. 77, 195; Lord Campbell's Ch. Just. ii. 177.

distinction, and had been resident during the twelfth century at Stanton near Oxford, from that time called Stanton-Harcourt. The chancellor's grandfather, Sir Simon Harcourt, loyally distinguished himself in the Irish rebellion of 1641, and was killed at the siege of Carrick Main in the following year; leaving a son, Sir Philip, who by his first wife, Anne daughter of Sir William Waller the parliamentary general, was the father of the subject of the present memoir. The family estate, from the one side or the other in the previous troubles, had been seriously diminished at the time of the Restoration.

Simon Harcourt[1] was born in 1660, and while receiving his education at Pembroke College, Oxford, was, according to the entry in the Inner Temple books, "specially" admitted on April 16, 1676, as a member of that society at the request of Mr. Holloway of Oxford, his father's neighbour in the country, who was then reader, and afterwards one of the judges excluded from the Act of Indemnity at the Revolution. After the usual seven years' probation he was called to the bar on November 25, 1683; and before his father's death in 1688 he was elected recorder of Abingdon.[2] That borough returned him to parliament in 1690, and so fully did his constituents approve his political sentiments that they returned him their representative in all the future parliaments of King William's reign. That he was strongly imbued with Tory principles he evinced on his first entrance into the house, by the objections he then raised in the discussions on the bills for the settlement of the government; and afterwards in 1696 by powerful speeches in opposition to the bill of

[1] There was another Simon Harcourt, who was conspicuous about this time as a successful claimant of the office of clerk of the peace for Middlesex. He was afterwards clerk of the crown and member for Aylesbury in the Parliament of 1702. Luttrell frequently mentions him.

[2] Inner Temple Books; Wood's Ath. Oxon. iv. 214.

attainder against Sir John Fenwick, as a proceeding both unconstitutional and unjust. He carried his party feeling so far, that he declined in the first instance to subscribe the Association of the Commons on the discovery of the assassination plot.

The tide of party turned, however, towards the latter end of King William's reign; and the Whigs declined in popularity till they became a minority in the House of Commons. The consequence of this was first the removal, and then the impeachment, of Lord Somers; the duty of carrying up the charge against whom to the House of Lords was intrusted to Harcourt, to whose management or mismanagement (as it may be variously considered) may probably be attributed the non-appearance of the prosecutors at the trial.[1] At this time he had acquired a complete ascendency not only in the house but in general estimation. His wit and eloquence, in addition to his legal ability, were so universally acknowledged that in after years they were specially brought forward in a public document as a principal reason for his advancement. In the preamble to his patent of peerage "his faculty in speaking" is prominently noticed, with the addition that "it is unanimously confessed by all, that among the lawyers he is the most eloquent orator, and among the orators the most able lawyer."

But whatever his popularity may have been with the general public, it did not exempt him from the attacks of those who set all law at defiance. He is identified by a memorandum in Luttrell's Diary (iv. 631) as the subject of the following curious extract given by Mr. Welsby from the "London Post" of June 1, 1700:—

"Two days ago a lawyer of the Temple coming to town in his coach was robbed by two highwaymen on Hounslow Heath of 50*l.*, his watch, and whatever they could find

[1] Parl. Hist. v. 582, 596, 606, 958, 1016, 1067, 1136, 1246, 1314.

valuable about him; which being perceived by a countryman on horseback, he dogged them at a distance; and they taking notice thereof, turned and rid up towards him; upon which he, counterfeiting the drunkard, rid forward making antic gestures, and being come up with them, spoke as if he clipped the king's English with having drunk too much, and asked them to drink a pot, offering to treat them if they would but drink with him; whereupon they, believing him to be really drunk, left him and went forward again, and he still followed them till they came to Cue (Kew) ferry, and when they were in the boat, discovered them, so that they were both seized and committed; by which means the gentleman got again all that they had taken from him."

With the accession of Queen Anne the Tories were established in power, and Harcourt was at once admitted to partake it. He superseded Sir John Hawles as solicitor-general on June 1, 1702, was immediately knighted, and called to the bench of his inn of court. On the queen's visit to Oxford in the following August, he was in her suite and was honoured by that university with the degree of LL.D. In the first parliament of that reign he was again returned for Abingdon, but in the second and third he sat for Bossiney in Cornwall. He supported the extraordinary claims of the Commons to decide on the rights of electors in the famous Aylesbury case; and has the credit of drawing the bill for the Union with Scotland in such a manner as to prevent a discussion of the articles upon which the commissioners had agreed. While solicitor-general he acted as chairman of the Buckinghamshire quarter sessions; and of his charges to the grand jury there are manuscript notes in the British Museum. In April 1707 he succeeded to the post of attorney-general, but before a year elapsed he resigned it, in February 1708, on the change of ministry and the admission of the Whigs into the cabinet. In the new parliament called in November

of that year he was returned again by his former constituents for Abingdon, but on a petition against him by his Whig opponent, the house, notwithstanding the majority of legal votes at the close of the election were palpably in his favour, decided against him. He thus became the victim of an iniquitous system he had himself encouraged when in power in former parliaments, by which the faction in the ascendant decided on all petitions in favour of their own partisan. The Duke of Marlborough soon after removed him from the stewardship of the manor of Woodstock which he had held for some time.[1]

Before the close of that parliament he was elected member for Cardigan; but during his recess from the house the absurd impeachment of Dr. Sacheverell was resolved on, and Sir Simon was thus enabled to appear as his leading counsel at the bar of the House of Lords, and by a powerful argument to expose the folly of prosecuting his vain and silly client. No sooner had he delivered his opening speech than the announcement of his return for Cardigan prevented him from taking any further part in the trial, as being a member of the commons who had instituted the proceedings. He was obliged soon after this to submit to the operation of couching one of his eyes, which was performed with success by Sir William Read. The prosecution of Sacheverell was the deathblow of the Whigs. The Tories were restored to power, and Sir Simon on September 19, 1710, resumed his office of attorney-general. He was returned to the new parliament for Abingdon; but before it met the Great Seal was delivered into his hands on October 19, with the title of lord keeper. He then took up his residence in Powis House, Lincoln's Inn Fields.[2]

Of his professional exertions while at the bar there is little

[1] Burnet, v. 10, 48, 287, 345; Parl. Hist. vi. 264, 778; Luttrell, vi. 442.

[2] State Trials, xv. 196; Luttrell, vi. 620, 630, 644; Burnet, vi. 10, 11.

record. He probably practised principally in the court of Chancery, in the Reports of which the names of the counsel were then rarely noted. John Philips seems to refer to this employment in his invocation to Sir Simon's son, which opens the second book of his poem on Cyder, published in 1706:

> "Let thy father's worth excite
> Thirst for pre-eminence; see how the cause
> Of widows and of orphans he asserts
> With winning rhetoric and well-argued law."

Before he was solicitor-general his name only once occurs in the State Trials; as the last of five counsel engaged for the defence in the prosecutions against Duncombe in 1699 for falsely indorsing exchequer bills; and after he obtained office there are only three cases in which he acted besides that of Dr. Sacheverell: viz. Swensden for forcibly marrying Pleasant Rawlins; David Lindsay for high treason; and John Tutchin for a libel.[1]

The new lord keeper presided in the House of Lords for nearly a year without a title: but on September 3, 1711, he was raised to the peerage as Baron Harcourt of Stanton-Harcourt. The preamble to his patent was expressed in such glowing terms of eulogy that it is impossible to believe that he himself, as Lord Campbell (Chancellors, iv. 462) more than insinuates, was its author. On April 7, 1713, the queen changed his title of lord keeper to lord chancellor, which he retained till her death on August 1, 1714, steering cautiously amidst the dissensions in the cabinet and through the agitating scenes by which the last months of her reign were troubled. Although as chancellor he was forced to take the formal proceedings necessary for proclaiming the Hanoverian king, there was too much reason for believing that he had previously joined in the intrigue with Bolingbroke and Atterbury to restore the exiled family.

[1] State Trials, xiii. 1084; xiv. 561, 989, 1100; xv. 196.

The lords justices however replaced him in his position as lord chancellor; and notwithstanding the suspicion attaching to him, he escaped the consequences with which his colleagues were visited, and received no other punishment than an immediate discharge from his office on the arrival of George I. The king made his first entry into London on September 20, and on the next day he sent to Lord Harcourt for the Seal, which was delivered to Lord Cowper. Towards his old coadjutors he acted a friendly part; managing to defeat the impeachment of Oxford, and procuring a qualified pardon for Bolingbroke.[1]

After some years, when the Hanoverian succession was recognised by the great majority of the people, he joined the Whig party under Sir Robert Walpole, which while it accounts for the modified praise awarded to him by Whig writers, either throws a considerable doubt over the sincerity of his previous professions, or loads him with the imputation of deserting his principles from unworthy and avaricious motives. It procured him from his old allies the nickname of the Trimmer. His change of politics was accompanied on July 24, 1721, by an advance in the peerage to the dignity of viscount, and an increase of his retiring pension from two to four thousand a year. To that administration he continued his support through the remainder of the reign; though he never held any other official position than that of one of the lords justices during the king's occasional visits to his German dominions. He survived George I. not quite two months, when being seized with a paralysis he died at his house in Cavendish Square on July 28, 1727. His remains were removed to the family cemetery at Stanton-Harcourt.

With undoubted abilities and a power of eloquence universally acknowledged, Lord Harcourt's reputation as a

[1] Lord Raymond, 1318; Parl. Hist. vii. 485.

judge is not very great. During the four years that he presided in equity, no insinuations of bribery were levelled against him, nor was a whisper heard against the honesty of his judgments; but his decisions are not held in high estimation at the present day. That he was kind and amiable in his disposition, polished in his manners, and of social habits, may be inferred from the number of friends that circled around him, from his being a frequenter of several literary and political clubs, and from his intimate association with Pope, Swift, Philips, Gay, and the other wits by which that age was distinguished. No published work of his enables us to judge of his learning; and his poetic effusions are confined to his commendatory lines prefixed to Pope's collected Poems, if they be his, and not his son's, as appears not unlikely, as they are subscribed, not with the title "Harcourt" only, but with "Simon Harcourt," the son's name at length. That son had already proved his poetic inclinations by the complimentary verses recited on the queen's visit to Oxford; and Pope's intimacy with him is testified by the graceful lines inscribed by the poet on his tomb when he died in 1720:—

"To this sad shrine, whoe'er thou art, draw near;
Here lies the friend most loved, the son most dear,
Who ne'er knew joy, but friendship might divide,
Or gave his father grief, but when he died.

How vain is reason, eloquence how weak!
If Pope must tell what Harcourt cannot speak.
Oh! let thy once-lov'd friend inscribe thy stone,
And, with a father's sorrows, mix his own."

Lord Harcourt was married three times: first, to Rebecca, daughter of Mr. Thomas Clark; secondly to Elizabeth, daughter of Richard Spencer, Esq., and widow of Richard Anderson, Esq.; and lastly, to Elizabeth, daughter of Sir Thomas Vernon of Twickenham Park, and widow of Sir

John Walter of Saresden in Oxfordshire, Bart. He had issue by his first wife only; and his son Simon having died before him, he was succeeded by his grandson, to whose other titles an earldom was added in 1749. These honours became extinct on the death of the third earl without issue in 1830.[1]

## JEKYLL, JOSEPH.

M. R. 1717.

*See* under the reign of George II.

## KING, PETER, Lord King.

Ch. C. P. 1714. Lord Chanc. 1725.

*See* under the reign of George II.

## MACCLESFIELD, EARL OF. *See* T. Parker.

## MONTAGU, JAMES.

B. E. 1714. Com. G. S. 1718. Ch. B. E. 1722.

James Montagu was the grandson of Sir Henry, the first Earl of Manchester, chief justice of the King's Bench in the reign of James I.; being the son of the Hon. George Montagu, of Horton in Northamptonshire, one of the earl's children by his third marriage. His mother was Elizabeth, daughter of Sir Anthony Irby; and his brother Charles, the eminent statesman and poet, was created Baron Halifax in 1710, to which was added an earldom in 1714: but the latter title became extinct on the death of the third earl in 1771. Four of the judge's family having attained high dignities in the law, James as a younger son naturally selected the same profession, no doubt hoping to acquire some of those honours to which he might consider he had a sort of hereditary claim. He was therefore entered of the Middle Temple, by which

[1] I owe much of this sketch to the excellent memoir of Lord Harcourt by W. N. Welsby, Esq. Lives, 172.

society he was called to the bar. On attaining the rank of solicitor-general he removed to Lincoln's Inn, of which he was elected a bencher on May 2, 1707.

The register of St. Andrew's, Holborn, records his marriage "at the Rose" with "Tufton Ray" on October 6, 1694. This lady was the daughter of Sir William Wray of Ashby, Bart., a descendant of chief justice Sir Christopher Wray, and died in 1712. Soon after this marriage he entered into parliament, being elected for Tregony in 1695, and for Beeralston in 1698; in which year he was appointed chief justice of Ely. He did not obtain a seat in the two remaining parliaments of William, nor in the first parliament of Anne; devoting himself entirely to professional avocations in which he was very generally employed. In 1704 he made a bold and successful fight in defence of John Tutchin (a former intended victim of Jeffrey's in his western campaign), who was indicted for a libel published in "The Observator." In Michaelmas Term of the same year he was one of the counsel who moved for a habeas corpus in favour of the Aylesbury men committed to Newgate by the House of Commons for bringing actions against the returning officer, and pleaded strongly against the absurd privilege claimed by the house. For the mere exercise of this duty as a barrister, the commons on February 26, 1705, committed him and his colleagues to the custody of the serjeant-at-arms, where he remained till March 14, when the queen felt compelled to prorogue, and afterwards to dissolve the parliament, in order to prevent the collision between the two houses, of which there was every appearance. In the following April the queen conferred the honour of knighthood upon him at Cambridge; and in November appointed him one of her majesty's counsel.[1]

[1] State Trials, xiv. 808, 850, 1119; Luttrell, v. 524, 542, 609.

In the second parliament of Queen Anne he was elected member for the city of Carlisle, which he continued to represent till 1714; but of his speeches in the house little record remains, though he became solicitor-general on April 28, 1707, and attorney-general on October 6, 1708. From the latter office he was removed in September 1710, but the queen granted him a pension of 1000*l.* This pension, which was represented by Colonel Gledhill as intended to defray the expenses of Sir James's election at Carlisle, was in 1711 made the subject of a complaint to the house, which resulted in the complete disproval of the charge. Sir James, however, was not returned for Carlisle in the queen's last parliament of 1714; and before the first parliament of George I. he was raised to the judicial bench. In 1705 he was leading counsel in the prosecution of Robert Fielding for bigamy in marrying the Duchess of Cleveland; in 1710 while attorney-general he opened the charges against Dr. Sacheverell in the House of Lords; and when that trial was concluded he conducted the prosecutions of the parties who were found guilty of high treason, for pulling down meeting-houses in the riots that followed.[1]

On the arrival of George I. in England and his settlement of the judges, Sir James received the degree of the coif on October 26, 1714, and on November 22 was sworn a baron of the Exchequer. While holding that position he was nominated one of the lords commissioners of the Great Seal, on the resignation of Lord Cowper, and held it from April 18 till May 12, 1718, when Lord Parker was appointed lord chancellor. On May 4, 1722, Chief Baron Bury died, and before the end of the month Sir James was sworn as his successor. He presided in the Exchequer little more than a year, his death occurring on October 1, 1723.

[1] Parl. Hist. vi. 1009; State Trials, xiv. 1329, xv. 53, 549–680.

His second wife was Elizabeth, daughter of Robert third Earl of Manchester; by whom he had a son, Charles, who was afterwards member for St. Albans.[1]

## PAGE, FRANCIS.

B. E. 1718. JUST. C. P. 1726.

*See* under the reign of George II.

## PARKER, THOMAS, LORD PARKER, EARL OF MACCLESFIELD.

CH. K. B. 1714. LORD CHANC. 1718.

*See* under the reign of Anne.

THE efforts too universally made to give heraldic distinction to persons who have been elevated to high honours solely by their own merits and exertions, are often laughable and sometimes contemptible; as if the eminence to which they have climbed is rendered more luminous by the occurrence of a name similar to their own in possession of an estate in the time of the Plantagenets. Few men, however humble may be their present state, will fail to find among their ancestors, if they will take the trouble to search, some such owner of property; but they will soon discover that it will have no effect, nor much influence, in procuring their advancement, unless aided by energy and industry on their own behalf.

Though Thomas Parker may not be able to trace a connection (as the peerages insinuate) with the William le Parker who had a grant of free warren over his lands in Norfolk in the reign of Henry III., it is enough to record of him that he belonged to a branch of a respectable family long seated at Norton Lees in Derbyshire. His father Thomas Parker, a younger son of George Parker of Park Hall in Staffordshire, high sheriff of that county in the reign of Charles I.,

[1] Lord Raymond, 1319, 1331; Collins' Peerage, ii. 83; Gent Mag. v. 151.

was an attorney practising in the neighbouring town of Leek; and his mother was Anne, daughter and co-heir of Robert Venables of Wincham in Derbyshire. He was born at Leek, and his birthday, July 23, 1666, was commemorated in a future year by the poet John Hughes, to whom both he and Lord Cowper had been munificent benefactors, in the following eulogistic lines:—

"Not fair July, tho' Plenty clothe his fields,
Tho' golden suns make all his mornings smile,
Can boast of aught that such a triumph yields,
As that he gave a Parker to our isle.

Hail, happy month! secure of lasting fame!
Doubly distinguish'd thro' the circling year:—
In Rome a hero gave thee first thy name,
A patriot's birth makes thee to Britain dear."

After receiving the rudiments of his education at Newport in Shropshire and at Derby, his father sent him to complete it at the university of Cambridge, where he was entered a pensioner at Trinity College on October 9, 1685.[1] He had already been admitted a student at the Inner Temple on February 14, 1683-4, before which time his father had removed to Newcastle-under-Lyne; but there is no record of the course of his studies at the one, nor of his taking any degree at the other. It is not impossible, though very unlikely, that he might have been articled to his father at the time he became a member of the Inner Temple; but his subsequent entry at Cambridge, and still more his call to the bar on May 21, 1691, seem completely to negative the story mentioned by Lysons, and asserted as a fact by Lord Campbell, that he was placed on the roll of the junior branch of the profession, or practised as an attorney at Derby, "at the foot of the bridge next the Three Crowns."[2] He could not

[1] Collins' Peerage, iv. 190; Quarterly Review, lxxxii. 594.
[2] Inner Temple Books; Lysons' Derbysh. 111; Campbell's Chanc. iv. 503.

at the same time be a barrister and an attorney; and though nine years elapsed after his call to the bar before his name appears in the Reports, yet from the importance of the cases in which we find him engaged, amongst which was the famous prosecution against John Tutchin for libel, he must have had many previous opportunities of making his name known and respected.[1] He attended the Midland circuit, and probably acted as a provincial counsel in the town of Derby, of which he was soon elected recorder. The statement that he was designated the "silver-tongued counsel" is merely a second edition of the title given forty years before to Heneage Finch, afterwards Earl of Nottingham;—and seems to have been a compliment not uncommonly paid to legal dignitaries, since we have found a chief justice above two hundred years before spoken of as the "sweet-tongued Bryan."

The town of Derby returned him as one of its representatives to the parliament of November 1705, and again in the two following parliaments; but though he sat as a member for the five years he continued at the bar, there is no record of any speech he delivered in the house, nor of any part he took, except in the proceedings against Dr. Sacheverell. He owed his first election probably to the interest of the Duke of Devonshire, as his colleague was Lord James Cavendish, and as in the previous June he was by the recommendation of that duke, and of the Dukes of Newcastle and Somerset, not only raised to the degree of the coif, but immediately made one of the queen's serjeants and knighted. In the previous month he had been called to the bench of his inn, as a compliment on his intended promotion. Attached to the Whig party, he was naturally appointed one of the managers in the unpopular impeachment of Dr. Sacheverell in 1710, when his speeches were so effective, and his denunciations against the vain and factious doctor were

[1] Lord Raymond, 812, 856; State Trials, xiv. 1173.

so strong, that in his return to his chambers he with difficulty escaped from the mob, which since the commencement of the trial had been furiously excited against the prosecution. His exertions were soon rewarded and his fright quickly compensated by the chief justiceship of the Queen's Bench, which became vacant by the death of Sir John Holt during the progress of the trial; and on March 13, before the sentence was pronounced, Sir Thomas Parker was sworn into the office.

Within a month after his appointment he was called upon to preside at the trial of Dammaree, Willis, and Purchase, who had been engaged in the riots arising out of Sacheverell's trial, and were charged with pulling down dissenting meeting-houses; and though he summed up for the conviction, and they were found guilty of high-treason, he interceded for them and procured their pardon. During the eight years of his presidency he fully justified the wisdom of the choice; for though immediately following so renowned a lawyer as Sir John Holt, he escaped any injurious comparison, and conducted the business of his court with discrimination and learning; though of course Swift and the other Tory writers of the day did not fail to charge him with partiality.

Two years after the accession of George I., on March 10, 1716, he was raised to the peerage by the title of Baron Parker of Macclesfield; being the second chief justice of the King's Bench ennobled while holding that office; and at the same time he received the grant of a pension for life of 1,200*l.* a year. This is a sufficient proof of the estimation with which he was regarded by the king, whose favour was two years after firmly established by the opinion which the chief justice gave, that his majesty had the sole control over the education and marriages of his grandchildren;[1] an

[1] State Trials, xv. 1222.

opinion which, though subsequently confirmed, insured the enmity of the Prince of Wales. The fruits of the king's favour were immediate; the effect of the prince's animosity was for some time concealed.

A month after the resignation of Lord Cowper, the interval being filled up by the appointment of commissioners, the Great Seal was presented to Lord Parker on May 12, 1718, with the title of lord chancellor, accompanied by the extraordinary present of 14,000*l.* from the king. To his son also a yearly pension of 1,200*l.* was at the same time granted till he obtained the place of teller of the Exchequer, to which he was appointed in the following year. Lord Parker held the Seal for nearly seven years, and proved himself as able in equity as he had shown himself in law, his decisions being regarded to this day with as much respect as those of any of his predecessors. On November 5, 1721, he was created Viscount Parker of Ewelme and Earl of Macclesfield, with a remainder, failing his issue male, to his daughter Elizabeth, the wife of William Heathcote, Esq., and her issue male. This uncommon limitation may have been caused by his son's absence abroad and the uncertainty of the father as to his existence. The earl had been already made lord lieutenant of the counties of Warwick and Oxford, in the latter of which he had purchased Sherburn Castle near Watlington. In September 1724 he was chosen lord high steward of the borough of Stafford. Yet with these and other proofs of the king's countenance and favour, with the reputation of an able dispenser of justice, in the full possession of his faculties and without any change, or any dissension in the ministry, he suddenly resigned the Great Seal on January 4, 1725.

His high position for the last four years in which he filled it had been anything but a bed of roses. In the latter end of 1720 Mr. Dormer, one of the masters in chancery, had

absconded in consequence of the failure of a Mr. Wilson his goldsmith or banker, in whose hands he had deposited a large amount of the suitors' cash. The deficiency this occasioned, added to his own losses by speculating with the same cash in the South Sea bubble, which at that time burst, amounted to nearly 100,000*l.*, which it was impossible for him to meet from his own private means. Those means were applied as far as they would go, and various palliatives were adopted by the chancellor, to satisfy the incoming claims; such as by applying for that purpose the price given by the successor for the mastership; by obtaining a contribution of 500*l.* from each of the other masters, except one; and by some payments out of his own pocket. But these were not nearly sufficient; and the refusal of the masters to make any further contribution, with the urgency of unsatisfied applicants, determined the chancellor to put an end to his anxiety by resigning the Seal.

Then did he experience the effect of the prince's displeasure. He had not resigned three weeks before petitions were presented to the House of Commons by his royal highness's friends from parties complaining of non-payment of the moneys they were entitled to; addresses to the king were voted; commissions of inquiry granted; and reports made, which resulted in the earl's impeachment for corruption on February 12. The charges were not like those against Lord Chancellor Bacon for taking bribes of the suitors, but the twenty-one articles were confined to his selling offices contrary to law, and for taking extortionate sums for them, with the knowledge that the payment was defrayed out of the suitors' money. The trial lasted thirteen days, from the 5th to the 27th of May; and the report occupies no less than 632 columns of the "State Trials" (vol. xvi. 767, *et seq.*). The proceedings were most tiresome, and the repetitions and the quibblings do no credit either to the managers for the

commons or to the accused earl. The lords unanimously found him guilty and fined him 30,000*l.* This sum the king, though he was obliged to strike his name from the privy council, intimated to him that he would pay out of his privy purse as fast as he could spare the money; and actually gave him 1000*l.* towards it in the first year, and in the second directed 2000*l.* more to be given to him; but before the earl applied for it the king died, and Sir Robert Walpole evaded the payment, probably from his fear of offending the implacable successor.

This prosecution was attended with important results. Though many will consider that the earl was treated harshly and made to suffer for irregularities introduced by his predecessors, all must rejoice in the exposure and removal of them which the investigation produced. A vicious system had prevailed for a long series of years, not only in the court of Chancery, but in the other courts also, of disposing of the various offices in the gift of the chiefs to any person who would offer what was called "a present" to the bestower. In the court of Chancery not only the executive and honorary officers who were entitled to fees were expected to contribute to the purse of the chancellor, but the system extended to the masters in Chancery, who were the chancellor's judicial assistants, and moreover were entrusted with the care of the moneys, the right to which was disputed, or the application of which was to be determined, in the various causes that came within the jurisdiction of the court. The practice had been notoriously acted upon for many years by the chancellor's predecessors, and, though the equally objectionable custom of receiving new-year's gifts had been abrogated by those whom he immediately succeeded, Lords Cowper and Harcourt, yet even they had not hesitated to receive payment from those masters whom they had appointed. Bad as the system was, the blot would not have

been removed but for the accident of Mr. Dormer's insolvency, and even with that discovery Lord Macclesfield would probably have escaped censure had he confined himself to the former practice, which had been in some sort recognised by the legislature,—inasmuch as at the Revolution a clause prohibiting the sale of the office of master of Chancery, which had been proposed to be inserted in a bill then before the house, had been negatived by the lords. Either his acquittal, or his condemnation, would have equally resulted in the abolition of that practice, and in a more safe investment of the suitors' money. But unfortunately for the accused earl the investigation proved that he had not been content with the accustomed honorarium, but had increased the price so enormously, that it became next to impossible for the appointees to refund themselves, or even to pay the amount, without either extorting unnecessary fees by delaying causes before them, or using the money deposited with them, to defray the sum demanded. That he employed an agent to bargain for him and to higgle about the price there is no doubt, and that he was aware of the improper use that was made of the suitors' money and took means to conceal the losses that occasionally occurred, there is too much evidence. Though therefore his friends might assert that he was made to suffer for a system of which he was not the author, and which had been knowingly practised by his predecessors with impunity, it is impossible to acquit him entirely of the charge of carrying that system to an exorbitant extent, and of corruptly recognising, if not encouraging, practices dangerous to the public credit and destructive of that confidence which should always exist in the judicature of the country. The contradictions sometimes found in human nature are extraordinary; for while the disclosures of the trial tend to exhibit an avaricious disposition in the earl, the evidence he produced, with questionable delicacy, satisfactorily proves that he was

at the same time extremely liberal, dispensing with an almost extravagant hand large sums in the promotion of learning and in aid and encouragement of poor scholars and distressed clergymen. That the price paid by the masters for their places was considered a legitimate part of the profit of the chancellor, received a curious confirmation in the grant to Lord Macclesfield's immediate successor, Lord King, of a considerable addition to his salary, as a compensation for the loss occasioned by the annihilation of the practice consequent upon this investigation.

Lord Macclesfield lived seven years afterwards, but mixed no more in public affairs. He spent his time between Sherburn Castle, his seat in Oxfordshire, and London, where at the time of his death he was building a house in St. James's Square, afterwards inhabited by his son. He died at his son's house in Soho Square on April 28, 1732, and was buried at Sherburn.

His wife, Janet, daughter and coheir of Charles Carrier of Wirksworth in Derbyshire, Esq., brought him two children only, a son and a daughter. The daughter married William (afterwards Sir William) Heathcote; and the son, who succeeded to the earldom, was renowned as a philosopher, and had a principal share in preparing the act of parliament for the alteration of the style. The present earl is the sixth who has borne the title.

## PENGELLY, THOMAS.

CH. B. E. 1726.

*See* under the Reign of George II.

## POWYS, LITTLETON,

JUST. K. B. 1714.

*See* under the Reigns of William III. and Anne.

THE pedigree of Sir Littleton Powys is authentically traced up to the Princes of Powys in the twelfth century by

veracious genealogists, who carry it down through a multitude of Aps, Barons of Main-yn-Meifod in Powys-land, till the reign of Edward II.; about which time the Welsh appendage was discarded, and the more pronounceable name of Powys adopted. The family subsequently divided into several branches, one of which settled in Shropshire. Thomas Powys of Henley in that county, who was autumn reader of Lincoln's Inn in 1667, and serjeant-at-law in 1669, by his first wife Mary daughter of Sir Adam Littleton, Bart., was the father of four sons, the eldest of whom, who was baptized with his mother's maiden name, and the second, Thomas, both became judges.[1]

Littleton Powys was born about the year 1648, and was instructed in the mysteries of law at Lincoln's Inn, where he was admitted in 1664, his father being at that time a bencher there, and was called to the bar after the customary period of preparation in May 1671. He obtained no rank in the profession before the Revolution, when he took arms in favour of William with three servants, and read aloud that prince's declaration at Shrewsbury. He was rewarded for his zeal by being made in May 1689 second judge on the Chester circuit. In 1692 he was raised to the degree of the coif, and soon after knighted; and on October 29, 1695, he was promoted to the bench as a baron of the Exchequer. In that court, and afterwards in the King's Bench, to which he was removed on January 29, 1701, he sat during three reigns till October 26, 1726, when being then seventy-eight years old he was allowed to retire on a pension of 1500*l.*[2]

On the accession of George I. in 1714 Lord Cowper had represented to the king that as the judge and his brother frequently acted in opposition to their two colleagues in the

[1] Collins' Peerage, viii. 577; Burke; Dugdale's Orig. Jur. 256.

[2] 9 Rep. Pub. Rec. App. ii. 252; Lord Raymond, 622, 1420; Pat. 12 Will. III. p. 5.

court, it was expedient to remove one of them, and recommended that Sir Littleton should be retained as a blameless man, though "of less abilitys and consequence."[1]

He was a good plodding judge, though, according to Duke Wharton's satire, he could not "sum a cause without a blunder," and was somewhat too much inclined to take a political view in the trials before him. In the absurd prosecution in 1718 of Hendley a clergyman, for preaching at Christchurch a charity sermon for the children of St. Ann's, Aldersgate Street, whom he caused to be convicted; and particularly in his letter of explanation to Lord Chancellor Parker, he was evidently influenced, not by the real question of law, but by a spirit of antagonism to Bishop Atterbury, who had authorised the sermon, and by a ridiculous pretence that such charitable collections might be applied to the injury of the Protestant Church and to the furtherance of the objects of the pretender. With moderate intellectual powers he filled his office with average credit, but was commonly laughed at by the bar for commencing his judgments with "I humbly conceive," and enforcing his arguments with "Look, do you see." He is the reputed victim of Philip Yorke's badinage, who dining with the judge and being pressed to name the subject of the work which he had jokingly said he was about to publish, stated that it was a poetical version of Coke upon Littleton. As nothing would satisfy Sir Littleton but a specimen of the composition, Yorke gravely recited,

> "He that holdeth his lands in fee
> Need neither to shake nor to shiver,
> I humbly conceive; for look, do you see,
> They are his and his heirs' for ever."

That Sir Littleton was ridiculed by the bar, appears in another metrical lampoon written by Philip Yorke called

[1] Lord Campbell's Chancellors, iv. 349, 634.

"Sir Lyttleton Powis's Charge in Rhyme, 1718," humorously quizzing his insipid phraseology.[1]

The judge lived nearly six years after his retirement, and died on March 16, 1732.

## POWYS, THOMAS,

Just. K. B. 1714.

*See* under the Reign of Anne.

Thomas Powys was the brother of Sir Littleton, and only a year his junior. He filled a larger space in the history of his time, though he occupied a judicial position for the brief period of a year and a quarter. After being educated at Shrewsbury school, he became a student at Lincoln's Inn in February 1665, and was called to the bar in April 1673. Burnet calls him a young aspiring lawyer; and he certainly outstripped his elder brother in the race for legal honours, though neither of them had any eminence in legal attainments.

When James II. found that his law officers declined to comply with his arbitrary requirements, he selected Thomas Powys on April 23, 1686, to fill the post of solicitor-general in the place of Heneage Finch, and thereupon knighted him. Offering no objection to the issue of warrants to avowed papists to hold office, and arguing Sir Edward Hale's case in favour of the power assumed by the king to dispense with the test, he was advanced in December of the next year to the attorney-generalship on the discharge of Sir Robert Sawyer. In that character he conducted the case against the seven bishops in June 1688, when the moderation, if not lukewarmness of his advocacy contrasted strongly with the indecent intemperance of Williams, the solicitor-

[1] State Trials, xv. 1407–1422; Cooksey's Essays on Lords Somers and Hardwicke, 57, 66; Harris's Life of Lord Hardwicke, i. 84.

general. It may readily be believed, as he expressed himself in a letter to the Archbishop of Canterbury in the following January, excusing his acting in that "most unhappy persecution," that "it was the most uneasy thing to him that ever in his life he was concerned in."[1]

The abdication of James of course brought his official career to a close; and during William's reign, though he was a fair lawyer and fully employed, especially in the defences on state prosecutions, he remained on the proscribed list. In the latter part of that reign he became a member of parliament representing Ludlow in 1701, and was returned for the same place till 1713. At the beginning of Queen Anne's reign he was made at one step serjeant and queen's serjeant; and before the end of it, on June 8, 1713, was promoted to a seat in the Queen's Bench, where his brother was then second judge. He did not long remain there, for the queen dying in August 1714, King George on his coming to England superseded him on October 14, at the instigation of Lord Chancellor Cowper, who, though he allowed that he had "better abilitys" than his brother, objected to him as zealously instrumental in the measures that ruined King James, and as still devoted to the pretender. He was, however, restored at the same time to his rank as king's serjeant.[2] He survived his dismissal nearly five years, and dying on April 4, 1719, he was buried under a splendid monument at Lilford in Northamptonshire, the manor of which he had purchased in 1711.

Though strongly opposed in politics, Burnet had evidently a high opinion of him; and the following extract from his epitaph, written by Prior, gives a graceful summary of his legal character:

[1] Burnet, iii. 91, 223; State Trials, xii. 280; Clarendon Corresp. ii. 507.
[2] Lord Raymond, 1318; Lord Campbell's Chancellors, iv. 349.

"As to his profession,
In accusing cautious, in defending vehement,
In his pleadings sedate, clear, strong;
In all his decisions unprejudiced and equitable;
He studied, practised, and governed the law
In such a manner, that
Nothing equalled his knowledge
Except his eloquence;
Nothing excelled both
Except his justice;
And whether he was greater
As an advocate or a judge
Is the only cause he left undecided."

He married twice. His first wife was Sarah, daughter of Ambrose Holbech of Mollington in Warwickshire; his second was Elizabeth, daughter of Sir Philip Medows, knight; by both of whom he had a family. His great-grandson Thomas Powys was created Lord Lilford in 1797, and his descendants still enjoy the title.[1]

## PRATT, JOHN.

Just. K. B. 1714. Com. G. S. 1718. Ch. K. B. 1718.

The name of Pratt is highly distinguished in legal annals, having been borne both by a lord chief justice, and by a lord chancellor, father and son. None of the biographers of the family state who the chief justice's father was; but they record that his grandfather, Richard Pratt, was ruined by the civil wars and obliged to sell his patrimonial estate at Carewell Priory near Collumpton in Devonshire, which had been long in possession of his ancestors. The parents of John Pratt, however, had sufficient means to afford him a liberal education. He was sent to Oxford and eventually became a fellow of Wadham College. He studied the law at the Inner Temple from November 18, 1675, till February

[1] Burnet, *ut supra*; Collins' Peerage, vii. 579.

12, 1681, when he was called to the bar. His name does not appear during the succeeding eventful period, but he obtained sufficient prominence in his profession to be included in the batch of serjeants who were honoured with the coif in 1700, and to be employed in 1711 to defend the prerogative of the crown in granting an English peerage to the Scotch Duke of Hamilton; against which the lords decided by a small majority. Speaker Onslow calls him a man of parts, spirits, learning and eloquence, and one of the most able advocates of that time.[1] Lord Campbell says he went by the name of the "lively serjeant" in Westminster Hall. Whatever authority his lordship has for this, his success in that arena must have been very considerable to have enabled him to purchase in 1703 the manor and seat of Wilderness (formerly called Stidulfe's Place) in the parish of Seale in Kent. In the parliament of November 1710 he was returned for Midhurst, of which he was again the representative in that of February 1714, after the first session of which the queen died. In neither parliament did he take any prominent part in the debates, nor is there any appearance of his being specially connected with either of the political parties in the state; except that on the accession of George I. he was recommended by Lord Cowper to be a judge of the King's Bench, as one "whom the chief justice, Mr. Justice Eyres, and every one that knows him, will approve."[2]

He was accordingly sworn into office on November 22, 1714, and knighted. In Hilary Term 1718 he gave a decided opinion in favour of the crown respecting the education and marriage of the royal family; and on the resignation of the Seals by Lord Cowper in the same year he was appointed one of the lords commissioners; holding that office from

[1] Collins' Peerage, v. 264; Burnet, vi. 80, note.

[2] Lord Raymond, 1319; State Trials, xv. 1216; Strange, 86.

April 18 to May 12. Three days after he was elevated to the post of lord chief justice of the King's Bench, made vacant by Lord Parker's being appointed the new chancellor.[1]

He presided over the court for nearly seven years, and ably supported its dignity. In the only two reported criminal cases that came before him, those of Reason and Tranter for murder, and Christopher Layer for high treason, he acted with equal patience and fairness; and in the exercise of his civil jurisdiction his rulings are looked upon with respect and consideration. One of them, which has however been partially overruled, formed a subject for the wits of Westminster Hall. A woman who had a settlement in a certain parish had four children by her husband, who was a vagrant with no settlement. The chief justice decided that the wife's settlement was suspended during the husband's life, but that it was revived on his death, and that the children were then chargeable on the mother's parish. This judgment, though not regularly reported, is preserved and quoted in the following catch:

"A woman having a settlement
Married a man with none:
The question was, he being dead,
If that she had were gone.

Quoth Sir John Pratt . . . "Her settlement
*Suspended* did remain
Living the husband; but he dead,
It doth *revive* again."

Chorus of puisne judges:

"Living the husband; but he dead,
It doth revive again."[1]

Sir John died at his house in Ormond Street on February 14, 1725. He married twice. His first wife was Elizabeth

[1] State Trials, xvi. 45, 290; Burrow's Sett. Cases, 124.

daughter and co-heir of the Rev. Henry Gregory, rector of Middleton Stoney in Oxfordshire. By her he had four daughters (one of whom married Sir John Fortescue Aland, a judge of the Common Pleas), and five sons, three of whom died in infancy, and the fourth married for his second wife a daughter of Robert Tracy, also a judge of the Common Pleas. Sir John's second wife was Elizabeth daughter of the Rev. Hugh Wilson, canon of Bangor. She produced to him, besides four daughters, four sons, the third of whom, Charles, became lord chief justice of the Common Pleas and lord chancellor in the reign of George III.[1]

PRICE, ROBERT.

B. E. 1714. JUST. C. P. 1726.

*See* under the Reigns of Anne and George II.

PROBYN EDMUND.

JUST. K. B. 1726.

*See* under the Reign of George II.

RAYMOND, ROBERT.

JUST. K. B. 1724. COM. G. S. 1725. CH. K. B. 1725.

*See* under the Reign of George II.

REYNOLDS, JAMES.

JUST. K. B. 1725.

*See* under the Reign of George II.

SIMPSON, WILLIAM.

CURS. B. E. 1714.

*See* under the Reigns of William III. and Anne.

OF William Simpson, who was cursitor baron of the Exchequer under three sovereigns, from the ninth year of William III. to the last year of George I., there is the

[1] Lord Raymond, 1381; Collins' Peerage, v. 264

usual deficiency of information. In his admission to the Inner Temple in November 1657 he is described as of Bromsgrove in the county of Worcester. His call to the bar did not take place till November 1674, seventeen years after; and he was not elected a bencher of the society till he was constituted cursitor baron. He succeeded Richard Wallop in that office on October 2, 1697, receiving the honour of knighthood on December 12, and filled it nearly nine-and-twenty years, when his great age obliged him to surrender it on May 23, 1726.[1]

## SMITH, JOHN.

B. E. 1714.

*See* under the Reign of Anne.

This judge is distinguished by having held a judicial seat in each of the three kingdoms. He was the son of Roger Smith, Esq. of Frolesworth in Leicestershire, and went through his legal training at Gray's Inn, to which society he was admitted on June 1, 1678, and was called to the bar on May 2, 1684. From his reputation in the profession he obtained a seat on the Irish bench, and receiving the degree of the coif in 1700, was sent as a judge of the Common Pleas to that country on December 24 of that year. In less than a couple of years he was recalled and made a baron of the English Exchequer on June 24, 1702.

In the great case of Ashby and White on the Aylesbury election, he opposed the judgment of the three puisne judges of the Queen's Bench, concurring in the opinion of Chief Justice Holt in favour of the voter who had been deprived of his franchise by the returning officer. The reversal of that judgment and the confirmation of Holt's opinion by the House of Lords, was then represented as a Whig triumph,

[1] Pat. 9 Will. III. p. 5; Lord Raymond, 748, 1317; Luttrell, iv. 287, 319; 6 Report Pub. Rec. App. ii. 117.

but must be considered, now that party spirit no longer is predominant, as a triumph of common-sense over a fanciful claim of privilege by the House of Commons. In May, 1708, he was selected to settle the Exchequer in Scotland, and was sent as lord chief baron for that purpose; being still allowed, though another baron was appointed here, to retain his place in the English court, and receiving 500*l.* a year in addition to his salary. He enjoyed both positions till the end of his life, being resworn on the accession of George I. in his office of baron of the English Exchequer, although he performed none of its duties. His death occurred on June 24, 1726, and by his will he founded and endowed a hospital at his native village of Frolesworth for the maintenance of fourteen poor widows of the communion of the Church of England.[1]

## THOMSON, WILLIAM.

CURS. B. E. 1726.

*See* under the reign of George II.

## TRACY, ROBERT.

JUST. C. P. 1714. COM. G. S. 1718

*See* under the Reigns of William III. and Anne.

THE Hon. Robert Tracy was the eldest son of Robert, second Viscount Tracy in Ireland (of whose ancestor Henry de Tracy some account has been given as a baron of the Exchequer in the reign of Henry III.), by his second wife Dorothy daughter of Thomas Cocks, Esq. of Castleditch in Herefordshire. He was born at his father's seat at Toddington in Gloucestershire, in 1655, and acquired the rudiments of law in the Middle Temple from 1673 to 1680, when he was called to the bar.[2]

[1] Nichols' Leicestersh. 185; Smyth's Law Off. Ireland, 130; Lord Raymond, 769, 1317; Lord Campbell's Ch. Just. ii. 160; Gent. Mag. lxiii. 1131; Luttrell, iv. 713, v. 184, vi. 299.

[2] Atkyns' Gloucestersh. 410; Middle Temple Books.

In July 1699 King William made him a judge of the King's Bench in Ireland, but soon translated him from that country to be a baron of the Exchequer in England. This appointment took place on November 14, 1700; but in less than two years he had a second removal, replacing Mr. Justice Powell in the Common Pleas in Trinity Term, 1702, soon after the accession of Queen Anne. Here he remained for four-and-twenty years, during which period he was selected both by that Queen and by George I. to be one of the commissioners of the Great Seal on vacancies in the office of Lord Chancellor. The first occasion was from September 14 to October 19, 1710, between the resignation of Lord Cowper and the appointment of Lord Harcourt; and the second was from April 15 to May 12, 1718, between the second resignation of Lord Cowper and the appointment of Lord Parker. He resigned his place on the bench on October 26, 1726, on the plea of ill health, but he lived nine years afterwards in the enjoyment of a pension of 1500*l.* a year. He died on September 11, 1735, aged eighty, at his seat at Coscomb in the parish of Didbrooke, Gloucestershire.

He is described as "a complete gentleman and a good lawyer, of a clear head and honest heart, and as delivering his opinion with that genteel affability and integrity that even those who lost a cause were charmed with his behaviour." This character, as it was written at the time of his death, may be regarded, with some allowance for its affected phraseology, as substantially true, especially when the Duke of Wharton in one of his satires declares that he will be constant to his mistress until the time—

"When Tracy's generous soul shall swell with pride."[1]

[1] Smyth's Law Off. Ireland, 100; Pat. 12 Will. III. p. 2; Lord Raymond, 605, 769, 1420; Luttrell, iv. 707, v. 184, vi. 633; Gent. Mag. v. 559.

He married Anne, daughter of William Dowdeswell of Pool Court in Worcestershire; and had, besides two daughters, three sons, Robert, Richard, and William. By the failure in 1797 of the line of descent from the judge's father's first marriage, the Irish peerage would of course have devolved on a descendant of the judge, as the eldest son by his father's second marriage. Of Robert and Richard, the two elder sons of the judge, the former had died without issue; and the latter together with his only son had died long before the death of the last viscount. William, the judge's third son, was said to have so deeply offended his father by marrying a woman of low degree in Ireland, that he was not even mentioned in his will. A person however, who professed to be the great-grandson of this William, claimed the peerage in 1843: but the House of Lords after various hearings, which extended to 1849, were not satisfied with the evidence in support of his claim.

## TREVOR, JOHN.

M. R. 1714.

*See* under the Reigns of James II., William III., and Anne.

FROM an elder branch of the old Welsh family from which Thomas Trevor the baron of the Exchequer in the reign of Charles I. sprung, the subject of the present sketch may claim a descent; his ancestor (who first adopted the name) being seated at Brynkynalt in Denbighshire at his death in 1494. John Trevor was second, but eldest surviving son of John Trevor of that place by Mary daughter of John Jeffreys of Helon in the same county, the aunt of the Judge Jeffreys of infamous memory. At the time of his admission to the Inner Temple in November 1654 his father is described of Ross-Trevor in Ireland, whither he had probably retired in reduced circumstances, if Roger North's statement be

true, that the son "was bred a sort of clerk in the chambers of old Arthur Trevor, an eminent and worthy professor of the law in the Inner Temple." "A gentleman," he adds, "that observed a strange-looking boy in his clerk's seat (for no person ever had a worse sort of squint than he had), asked who that gentleman was: 'A kinsman of mine,' said Arthur Trevor, 'that I have allowed to sit here to learn the knavish part of the law.'"[1] That he was bettered by the instruction may be doubted; but that he became an able proficient there is evidence in the reputation he gained of being the best judge in all gambling transactions, of the tricks and intricacies of which he had personal experience.

He was called to the bar in May 1661, two years before the commencement of the novitiate of his cousin George Jeffreys, who soon distanced him in the race of advancement, having been elected common serjeant of London in March 1671, and recorder in October 1678. That he was indebted to his cousin (with whom he contracted an early friendship, repaying it according to common report by intriguing with his wife) for some of his future preferments is indisputable; but it is not so clear that he owed his knighthood to his cousin's recommendation, since it was conferred in January 1671, before Jeffreys could boast much ascendency at court. That Trevor had acquired some eminence in the law is apparent from his being elected treasurer of his inn in October 1674, and autumn reader in 1675. In the parliament of March 1679 he was elected for the borough of Beeralston, which returned him again for that called in October of the same year, but which did not meet till October in the next. In the Oxford Parliament of March 1681 he represented his native county of Denbigh: but during the whole of the reign of Charles II. the parliamentary history does not record one speech that he delivered.

[1] Collins' Peerage, vi. 292; Life of Lord Keeper North, 218.

Sir John Bramston, however, informs us that he was the only man who spoke in favour of Jeffreys, when the complaint against him as recorder of London was discussed in the house.[1]

On the accession of James II., his cousin, who was then chief justice, had an opportunity of showing his gratitude. Trevor having obtained a seat in that king's only parliament for the town of Denbigh, Jeffreys, in opposition to Lord Keeper North, succeeded in recommending him to be the speaker. So inefficient was he in the requirements of the office, that he was even obliged to read from a paper the few formal words in which he announced to the house the king's approbation; and was guilty of some other irregularities that were inexcusable in one who had had so long a senatorial experience. He showed more boldness and self-possession on the occasion of presenting the revenue bill on May 30, when he assured the king that the commons entirely relied on his majesty's sacred word to support and defend the religion of the Church of England. Of this reminder of the royal promise the king took not the slightest notice, nor apparently any offence, as on the 20th of the following October he promoted Sir John to the office of master of the rolls, then vacant by the death of Sir John Churchill.[2]

This elevation occurred at the period when his relative and patron had returned from his bloody campaign and been rewarded with the Great Seal. The court of Chancery was then presided over by two judges of kindred spirit, and it might be a question which of the two exceeded the other in want of principle, or in the use of coarse vituperation. Yet they both deserve praise in the exercise of their judicial functions, and the decrees they pronounced in private causes were able and just. A sort of rivalry, however, soon rose

[1] Noble's Cromwell, ii. 116; Dugdale's Chron. Ser. 122; Bramston, 208.
[2] Bramston, 197, 207; Parl. Hist. iv. 1359; Pat. 1 Jac. II. p. 9, n. 32.

up between them. Jeffreys sometimes reversed his coadjutor's decrees and adopted other irritating measures against him. Trevor, who could on occasion imitate not unsuccessfully the objurgatory style of his patron, now feeling himself no longer a dependent, assumed a dictatorial manner, found fault with the chancellor's proceedings, and very early after his appointment told him that if he pursued Alderman Cornish to execution it would be no better than murder. Indeed, Roger North tells us, "like a true gamester, he fell to the good work of supplanting his patron and friend, and had certainly done it, if King James's affairs had stood right much longer; for he was advanced so far with him as to vilify and scold with him publicly at Whitehall."

He was not admitted to the privy council till July 6, 1688; and on August 24 he was sent for in a hurry from "the Wells" to be present at that meeting when the king resolved to have another parliament. He was again present in October, when proof was given of the genuineness of the birth of the Prince of Wales: and after the king's first escape he was one of the faithful councillors who attended at his levee on his return from Rochester.[1]

At the Revolution he, with all the other judges, lost his place, which was given to Henry Powle, the speaker of the Convention Parliament. But he managed by his open professions of adherence to the extreme doctrines of the Church of England to keep up some degree of popularity with that party which was gradually superseding the ministers, who, though they had been chiefly instrumental in effecting the great change in the government of the kingdom, soon disgusted the king by assuming too great a control over him. To the Convention Parliament he did not venture to offer himself: but the borough of Beeralston, which had originally returned Sir John Maynard as its member and on his election to sit

[1] Bramston, 311–312; State Trials, xii. 123.

for Plimpton had chosen Sir John Holt, now, on the latter being raised to the bench, put Sir John Trevor in his place. Before the end of the year he entered into the debates as boldly as if he had never been connected with King James's court. In the next parliament of March 1690 he was returned for Yarmouth; and was selected by the minister Carmarthen to be the speaker of it, as the most fit instrument in the practice too openly encouraged and too long continued, of buying off those members who opposed the government.[1]

At this time Lord Macaulay (iii. 547) thus graphically describes him:—"It was necessary for the lord president to have in the House of Commons an agent for the purchase of members; and Lowther was both too awkward and too scrupulous to be such an agent. But a man in whom craft and profligacy were united in a high degree was without difficulty found. This was the master of the rolls, Sir John Trevor, who had been speaker in the single parliament held by James. High as Trevor had risen in the world, there were people who could still remember him a strange-looking lawyer's clerk in the Inner Temple. Indeed, nobody who had ever seen him was likely to forget him. For his grotesque features and his hideous squint were far beyond the reach of caricature. His parts, which were quick and vigorous, had enabled him early to master the science of chicane. Gambling and betting were his amusements; and out of these amusements he contrived to extract much business in the way of his profession. For his opinion on a question arising out of a wager or a game of chance had as much authority as a judgment in any court in Westminster Hall. He soon rose to be one of the boon companions whom Jeffreys hugged in fits of maudlin friendship over the bottle at night, and cursed and reviled in court the next morning.

[1] Burnet, iv. 74.

Under such a teacher, Trevor rapidly became a proficient in that peculiar kind of rhetoric which had enlivened the trials of Baxter and of Alice Lisle. Report indeed spoke of some scolding-matches between the chancellor and his friend, in which the disciple had been not less voluble and scurrilous than the master. These contests, however, did not take place till the younger adventurer had attained riches and dignities such that he no longer stood in need of the patronage which had raised him. Among high churchmen Trevor, in spite of his notorious want of principle, had at this time a certain popularity, which he seems to have owed chiefly to their conviction that, however insincere he might be in general, his hatred of the dissenters was genuine and hearty. There was little doubt that, in a House of Commons in which the Tories had a majority, he might easily, with the support of the court, be chosen speaker. He was impatient to be again in his old post, which he well knew how to make one of the most lucrative in the kingdom; and he willingly undertook that secret and shameful office, for which Lowther was altogether unqualified."

Being "a bold and dexterous man," Trevor soon after had a renewal of his legal honours. On May 14 he was made one of the lords commissioners of the Great Seal on the retirement of Sir John Maynard; an office which he enjoyed for nearly three years till the nomination of Somers as lord keeper on March 23, 1693. On the 13th of the previous January he had been replaced in his old position as master of the rolls vacant by the death of Henry Powle. Not satisfied with all these honours and the emoluments that flowed from them, Trevor with unblushing rapacity participated largely in the corruption that then too universally prevailed. In the investigation instituted by the parliament it was found that he had, among other bribes suspected but not proved, received a present from the city of London for

getting the orphans' bill passed, which had several times before been brought into the house without success. He was condemned to sit for six hours hearing himself abused, and at last was obliged to put the question and to declare himself guilty of "a high crime and misdemeanor." A new speaker was immediately appointed, and he was expelled the house on March 16, 1695; having only a fortnight before attended in all state the queen's funeral in Westminster Abbey.[1] No further punishment being awarded, the wits remarked "that Justice was blind, but Bribery only squinted." He never afterwards offered himself as a member; but so little was he abashed by his expulsion, that soon after on meeting Archbishop Tillotson he muttered loud enough to be heard, "I hate a fanatic in lawn sleeves." The archbishop answered, "And I hate a knave in any sleeves."

This disgrace did not deprive him of the mastership of the rolls, that office having been conferred upon him for life. Though Lord Raymond (p. 566) names him as joined with the three chiefs as commissioner of the Great Seal on the dismissal of Lord Somers in 1700, the "Crown Office Minute-book" (p. 141) proves that the appointment was to the three chiefs alone; his commission being solely to hear causes till a new lord keeper was appointed. He continued master of the rolls for twenty-two years after his expulsion; possessing so high a reputation as a lawyer that he was frequently appealed to as authority in doubful points by Lord Chancellor Harcourt; but with the character of being dead to every sense of shame, and of treating the counsel who attended his court with coarse and unfeeling brutality. So rough were his public reproaches to a nephew of his, that it is said the sensitive young barrister sunk under them and never recovered. The only honour he received in the reign of Queen Anne was that of constable of Flint Castle in

[1] Pat. 4 W. & M. p. 8, n. 20; Parl. Hist. v. 901–910; Bramston, 386.

1705, in the place of his father-in-law Sir Roger Mostyn. He died on May 20, 1717, at his house in Clement's Lane, and was buried in the Rolls Chapel, his memorial stone very wisely recording nothing more than the date of his death.[1]

The avarice for which he was notorious was not redeemed, as it often is, by occasional fits of generosity. Various stories are told of his meanness. One of them is that on a relation calling upon him while he was drinking his wine, he exclaimed to the servant, "You rascal, you have brought my cousin Roderick Lloyd, Esq., prothonotary of North Wales, marshal to Baron Price, and so forth, up my back stairs. Take him down again immediately, and bring him up my front stairs." During the operation, the bottle was removed and Sir John saved his wine.[2]

He married Jane the daughter of Sir Roger Mostyn, Bart., and the widow of Roger Puliston of Emeral in Flintshire; and had by her four sons and a daughter, who by her marriage with Michael Hill of Hillsborough in Ireland was the mother of Arthur, first Viscount Dungannon, who succeeding to his grandfather's estates took the name of Trevor. Anne the daughter of Arthur was the mother of the great Duke of Wellington.[3]

## TREVOR, THOMAS, Lord Trevor.

Ch. C. P. 1714.

*See* under the Reigns of William III. and Anne.

Thomas Trevor the future chief justice was the grandson of Sir John Trevor of Trevallyn in Flintshire, an elder brother of Sir Thomas Trevor the baron of the Exchequer under Charles I. His father, also Sir John, became secretary of state to Charles II. and died in 1672, leaving by his

[1] Luttrell, iv. 641, v. 540; Collins' Peerage, vi. 292, note.
[2] Yorke's Royal Tribes of Wales, 109.
[3] Townsend's Ho. of Commons, ii. 53; Woolrych's Judge Jeffreys.

wife Ruth, a daughter of the celebrated John Hampden, four sons, of whom this Thomas was the second. Born about the year 1659, he entered the Inner Temple on May 1, 1672 (just before the death of his father who had been a bencher of the inn), and was called to the bar on November 28, 1680. So early did he distinguish himself in the courts that he was elected a bencher in 1689, and was elevated to the post of solicitor-general on May 3, 1692; and thereupon knighted. He refused the attorney-generalship in 1693 when his official colleague Sir John Somers was promoted; but on the next change on June 8, 1695, he accepted the office.[1]

During the six years that he filled that responsible place he had to conduct the trials of the persons implicated in the Assassination Plot, in all of which he acted with a fairness and candour that formed a remarkable contrast to the criminal proceedings in the late reigns. In the progress of those trials the Act of Parliament (St. 7 Will. III. c. 3) for regulating trials for treason, which gave to the prisoners so charged the privilege of having counsel, came into operation, and Sir Thomas met the multiplied objections that were consequently urged by the defending advocates with temper, ability and learning. On the removal of Lord Somers in May 1700, he declined the offer to be made lord keeper; but on June 28, 1701, he accepted the more permanent place of chief justice of the Common Pleas, which had been vacant for six months since the death of Sir George Treby. He was member of one parliament only, that of 1695, in which he represented Plimpton, and according to Speaker Onslow he divided against Sir John Fenwick's attainder, although he was an officer of the government.[2]

On the accession of Queen Anne he was reappointed

[1] Luttrell, iii. 68; Lord Raymond, 57.

[2] State Trials, vols. xii. xiii.; Luttrell, iv. 645; Burnet, iv. 334.

chief justice and presided in the Court of Common Pleas during the whole of her reign. In the short interval between the chancellorships of Lords Cowper and Harcourt, from September 26 to October 19, 1710, he was entrusted with the Great Seal as first commissioner; and on December 31, 1711, he was called to the peerage by the title of Baron Trevor of Bromham in Bedfordshire, being one of the twelve peers whom Queen Anne by an unusual exercise of her prerogative created at once, to secure a majority for the proposed peace in the House of Lords. He was the first chief justice of the Common Pleas who was ennobled while holding that office. Though commencing his professional career as a Whig, and being united in office with Somers, he gradually joined the Tory party, and attached himself to it while Queen Anne reigned. He is thus described in the account of the judges of the different Courts given by Lord Cowper to George I. on his accession:—

"The first [the chief justice] is an able man, but made one of the twelve lords, w$^{ch}$ the late ministry procur'd to be created at once (in such haste, y$^{t}$ few, if any, of their patents had any preamble, or reasons of their creation), only to support *their peace*, w$^{ch}$ the House of Lords, they found, would not without that addition. From that time, at least, he went violently into all the measures of that ministry, and was much trusted by them; and when they divided, a little before the queen's death, he sided w$^{th}$ L$^{d}$ Bolingbr.; and for so doing, 'tis credibly said, was to have been made l$^{d}$ president. Many of y$^{e}$ lords think his being a peer an obj$^{n}$ to his being a judge; because, by y$^{e}$ constitution, y$^{e}$ judges ought to be *assistants* to the House of Lords, w$^{ch}$ they can't be, if a *part* of that body. Ther is but one example known of the like; w$^{ch}$ is that of L$^{d}$ Jefferys, ch. just. of the King's Bench, and after chancellor to K. Ja. y$^{e}$ 2$^{nd}$. 'Tis natural to think, y$^{e}$ other judges stomach y$^{e}$ distinction, while he is

among them: and tis said y^t y^e suitors dislike y^e difference they find in his behaviour to them since he had this distinction. He is grown very wealthy. If it be thought fit to remove him, S^r Peter King, record^r of the City of London, I should humbly propose as fit to succeed him." [1]

Upon the hint thus given Lord Trevor was removed on October 14, 1714. As his appointment was "quamdiu se bene gesserit," he said he would have tried the question as to the king's power to eject him, if Chief Justice Holt had not, by taking out a new commission when Queen Anne came to the throne, decided that in his opinion his former commission had expired on the demise of the crown.[2] Lord Trevor lived sixteen years afterwards; and changing his party again became in 1726 Lord Privy Seal, and in the next year was one of the lords justices during the last absence of George I. He retained the Privy Seal under George II., by whom he was raised on May 8, 1730, to the high office of lord president of the council, an honour which he did not enjoy for more than six weeks, as he died on the 19th of the next month at his seat at Bromham, where he was buried under a monument with an elegant Latin inscription.

He was generally admitted to have been an able and upright judge, though Chief Justice Holt is said to have disparaged his law. But the facility with which he deserted one party to side with the other, and returned again to the party he had left, could not but be detrimental to his character. Yet Speaker Onslow says, "he was the only man almost that I ever knew that changed his party as he had done, that preserved so general an esteem with all parties as he did. When he came back to the Whigs he was made

[1] Lord Campbell's Chancellors, iv. 349.

[2] Lord Raymond, 1318; Burnet, v. 12, Speaker Onslow's note.

lord privy seal and afterwards president of the council, and had much joy in both. He liked being at court and was much there after he had these offices, but was very awkward in it, by having been the most reserved, grave, and austere judge I ever saw in Westminster Hall." Lord Hervey describes him as being "by principle (if he had any principle) a Jacobite. However, from interest and policy he became like his brother convert and brother lawyer, Lord Harcourt, as zealous a servant to the Hanover family as any of those who had never been otherwise; for as these two men were too knowing in their trade to swerve from the established principles of their profession, they acted like most lawyers, who generally look on princes like other clients, and without any regard to right or wrong—the equity or injustice of the cause—think themselves obliged to maintain whoever fees them last and pays them best." [1]

This is a very prejudiced portrait and a most unfair judgment of lawyers. Trevor, like most sensible men, did not approve of the extreme views of either party; and seeing the impossibility of restoring the exiled family, and that any attempt to do so would inevitably be accompanied by all the horrors of a civil war, wisely lent his aid in supporting the Hanoverian princes in the peaceful possession of the throne to which they had been called.

He married twice. By his first wife Elizabeth, daughter and co-heir of John Searle, Esq., of Finchley, he had two sons and three daughters: and by his second wife Anne, daughter of Robert Weldon, Esq., and widow of Sir Robert Bernard, Bart. (whom he married in 1704, and who died in December 1746), he had three sons. The fourth of these five sons became Bishop of Durham in 1752, and the three elder brothers held the title of Lord Trevor successively.

[1] Burnet, iv. 344, note; Lord Hervey's Memoirs, i. 114.

The last of them, Robert fourth Lord Trevor, adopted the name of Hampden in 1754, in compliance with the will of his relative John Hampden, and in 1776 was advanced to the dignity of Viscount Hampden; both titles becoming extinct in 1824.[1]

[1] Collins' Peerage, vi. 302; Nicolas' Synopsis; Luttrell, v. 421, 468; Gent. Mag. xvi. 668.

# GEORGE II.

Reigned 33 years, 4 months, and 14 days; from June 11, 1727, to October 25, 1760.

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## SURVEY OF THE REIGN.

The beneficial innovation which had been introduced in the time of the Commonwealth, and which had been captiously repealed at the Restoration, was now acknowledged to be a great necessity. Complaints were so loudly made of the inconvenience and injustice of carrying on legal proceedings in Latin, which scarcely any of the litigants understood, that it was resolved at once to remedy the evil. Accordingly by Statute 4 George II. c. 26, it was enacted that all proceedings in the courts should be in the English language, and should be written in common legible hand and in words at length. This valuable improvement was not generally acceptable to the old lawyers, and Sir James Burrow in the preface to his Reports thus records his objections:—"A statute," he says, now took place for converting them [common-law pleadings] from a fixed dead language to a fluctuating living one; and for altering the strong solid compact hand (calculated to last for ages), wherein they used to be written, into a species of handwriting so weak, flimsy, and diffuse, that (in consequence and corruption of this statute, though undoubtedly contrary to its intention) many a modern record will hardly outlive its writer, and few perhaps will survive much above a century." Lord Raymond opposed the bill in the House of

Lords; and Judge Blackstone and Lord Ellenborough have objected to its provisions: but few in our day have experienced the resulting mischiefs anticipated by either of them.

Michaelmas Term, which had commenced on October 23 for above one hundred years, being shortened in 1640 by the cutting off of two returns, was in 1751 still further abbreviated by Stat. 24 Geo. II. c. 48, and its commencement fixed to be on November 6; the reason assigned in the preamble of the Act being that "very little business can be done by reason of the several holidays that are observed by the High Courts of Record between the first day of the said Term and the sixth day of November following." After this Act had continued in operation for eighty years, a further change was enacted in 1831, by which the commencement of Michaelmas Term was fixed to be on November 2; and thus it still remains.

During the thirty-three years of this reign there were only three lord chancellors, Lord King, Lord Talbot, and Lord Hardwicke, the latter holding the Great Seal for nearly twenty years. Lord Henley held it for three years with the title of lord keeper only; and it was placed in the hands of commissioners for seven months. The sittings in Chancery during the vacations were in Lincoln's Inn Hall.

## LORD CHANCELLORS, KEEPERS AND COMMISSIONERS OF THE GREAT SEAL.

PETER, LORD KING, who had been lord chancellor for two years at the end of the last reign, was continued for upwards of six years in this. On his resignation,

CHARLES TALBOT, ESQ., the solicitor-general, received the Great Seal, with the same title, on November 29, 1733; and on December 5 was created Baron Talbot, of Hensol in

Glamorganshire. He died on February 14, 1737, in possession of the office; and was succeeded in it by

Philip, Lord Hardwicke, lord chief justice of the King's Bench, on February 21, 1737. After presiding in the court of Chancery for nearly twenty years, during which he was advanced in the peerage to the earldom of Hardwicke, his second title being Viscount Royston, he resigned on the breaking up of the Duke of Newcastle's administration; and the Seal was placed in the hands of

Sir John Willes, Ch. C. P.,

Sir Sidney Stafford Smythe, B. E., and

Sir John Eardley Wilmot, Just. K. B.,

as lords commissioners, on November 19, 1756. They held it for seven months, when

Sir Robert Henley, the attorney-general, was appointed lord keeper on June 30, 1757. He retained the Seal till the king's death; a few months before which he was ennobled by the title of Baron Henley of Grange in Hampshire.

## Masters of the Rolls.

Sir Joseph Jekyll filled the office of master of the Rolls for one-and-twenty years, ten in the last reign, and eleven in this. On his death he was succeeded by

The Hon. John Verney, chief justice of Chester, on October 9, 1733. After enjoying his office for three years he died, and

William Fortescue, Esq., a judge of the Common Pleas, received the appointment on November 5, 1741, and retained it till his death eight years after. His successor,

Sir John Strange, one of the king's counsel, and who had formerly been solicitor-general, received his patent on January 11, 1760. He lived little more than four years.

Sir Thomas Clarke, also king's counsel, succeeded him on May 29, 1754, and held the office at the king's death.

The patent to John Verney is the first in the English language; and includes the grant of "one tunn or two pipes of Bordeaux wine" every year.

## MASTERS IN CHANCERY.

| | | |
|---|---|---|
| Sir Joseph Jekyll, M. R. | 1 to 7 | Geo. II. |
| Robert Holford | 1 to 24 | — |
| Henry Lovibond | 1 | — |
| John Bennett | 1 to 12 | — |
| James Lightboun | 1 to 11 | — |
| William Kynaston | 1 to 22 | — |
| Thomas Bennett | 1 to 34 | — |
| Francis Elde | 1 to 33 | — |
| Mark Thurston, A. G. 1731–1749 | 1 to 23 | — |
| Francis Cudworth Masham, A. G. 1727–1731 | 1 to 4 | — |
| Samuel Burroughs | 1 to 34 | — |
| Robert Yard | 1 | — |
| Anthony Allen | 1 to 27 | — |
| John Tothill | 1 to 5 | — |
| William Spicer | 4 to 34 | — |
| Richard Edwards | 5 to 34 | — |
| John Verney, M. R. | 7 to 15 | — |
| Edmund Sawyer | 11 to 33 | — |
| Henry Montague | 12 to 34 | — |
| William Fortescue, M. R. | 15 to 23 | — |
| Thomas Lane | 22 to 34 | — |
| John Waple, A. G. 1749–1759 | 23 to 33 | — |
| Sir John Strange, M. R. | 23 to 27 | — |
| Peter Holford | 24 to 34 | — |
| Thomas Harris | 27 to 34 | — |
| Sir Thomas Clarke, M. R. | 27 to 34 | — |
| Peter Davall, A. G. 1759–1760 | 33 to 34 | — |
| Peter Bonner | 33 to 34 | — |
| John Browning | 33 to 34 | — |

## CHIEF JUSTICES OF THE KING'S BENCH.

SIR ROBERT RAYMOND, the chief justice at the end of the reign of George I., retained his seat till his death; having been created Lord Raymond on January 15, 1731. He died on March 19, 1733; but his successor,

Sir Philip Yorke, the attorney-general, was not appointed till October 31, 1733. He was created Lord Hardwicke on November 23 in the same year; and on his being made lord chancellor on February 21, 1737, he filled both offices for nearly four months; when

Sir William Lee, a judge of this court, was raised to the head of it on June 8, 1737. After presiding for seventeen years, he was succeeded on his death by

Sir Dudley Ryder, the attorney-general, on May 2, 1754; on whose death on May 28, 1756, the office remained vacant for nearly six months; when

The Honourable William Murray, the attorney-general, became chief justice on November 8, 1756, and was on the same day created Lord Mansfield, under which title he presided during the remainder of the reign.

### Justices of the King's Bench.

| | | |
|---|---|---|
| I. 1727. June. | John Fortescue Aland, James Reynolds, Edmund Probyn, | the judges at the end of the last reign. |
| Sept. | Francis Page, vice J. F. Aland. | |
| III. 1730. June 1. | William Lee, vice J. Reynolds. | |
| XI. 1737. June 16. | William Chapple, vice W. Lee. | |
| XIV. 1740. Nov. 28. | Martin Wright, vice E. Probyn. | |
| 1741. Feb. 10. | Thomas Denison, vice F. Page. | |
| XVIII. 1745. April 22. | Michael Foster, vice W. Chapple. | |
| XXVIII. 1755. Feb 3. | John Eardley Wilmot, vice M. Wright. | |

The judges of the King's Bench at the end of the reign were

Lord Mansfield, chief justice,
Sir Thomas Denison, Sir Michael Foster,
Sir John Eardley Wilmot.

### Chief Justices of the Common Pleas.

Sir Robert Eyre kept his seat as chief justice of the Common Pleas till his death; when

Sir Thomas Reeve, a judge of the same court, was

raised to its head in January 1736. Dying the next year, his place was filled by

SIR JOHN WILLES, the attorney-general, from January 1737 till the king's death.

### JUDGES OF THE COMMON PLEAS.

| | | |
|---|---|---|
| I. 1727. | June. | Robert Price, Francis Page, Alexander Denton, } judges under George I. retained. |
| | Oct. 24. | Spencer Cowper, vice F. Page. |
| II. 1729. | Jan. 27. | John Fortescue Aland, vice S. Cowper. |
| VI. 1733. | April. | Thomas Reeve, vice R. Price. |
| IX. 1736. | Jan. | John Comyns, vice T. Reeve. |
| XII. 1738. | July 7. | William Fortescue, vice J. Comyns. |
| XIII. 1740. | April 21. | Thomas Parker, vice A. Denton. |
| XV. 1741. | Oct. | Thomas Burnet, vice W. Fortescue. |
| XVI. 1743. | Feb. | Thomas Abney, vice T. Parker. |
| XIX. 1746. | June. | Thomas Birch, vice J. F. Aland. |
| XXIII. 1750. | May. | Nathaniel Gundry, vice T. Abney. |
| XXVI. 1753. | Jan. | Edward Clive, vice T. Burnet. |
| XXVII. 1754. | May 2. | Henry Bathurst, vice N. Gundry |
| XXX. 1757. | March. | William Noel, vice T. Birch. |

The Common Pleas judges on the death of George II. were

Sir John Willes, chief justice,
Sir Edward Clive, Hon. Henry Bathurst,
Hon. William Noel.

### CHIEF BARONS OF THE EXCHEQUER.

SIR THOMAS PENGELLY, chief baron in the last year of the reign of George I., was continued in his place, but enjoyed it less than three years. On his death

JAMES REYNOLDS, Esq., a judge of the King's Bench, was appointed on April 30, 1730. After presiding eight years he resigned, and

SIR JOHN COMYNS, a judge of the Common Pleas, succeeded him on July 7, 1738. On his death two years after,

SIR EDMUND PROBYN, a judge of the King's Bench, was appointed on November 28, 1740. Within eighteen months he died also, and

Sir Thomas Parker, a judge of the Common Pleas, was made chief baron on November 29, 1742, and presided in the court during the remaining eighteen years of this reign.

Barons of the Exchequer.

| | | |
|---|---|---|
| I. 1727. | June. | Bernard Hale, Lawrence Carter, John Comyns, } barons of the last reign continued. |
| | | William Thomson, cursitor baron. |
| III. 1729. | Nov. 27. | Ditto made B. E., vice B. Hale. |
| | Dec. 11. | John Birch, cursitor, vice W. Thomson. |
| IX. 1735. | Nov. 6. | George Clive, cursitor, vice J Birch. |
| 1736. | Feb. 9. | William Fortescue, vice J. Comyns. |
| XII. 1738. | July 7. | Thomas Parker, vice W. Fortescue. |
| XIII. 1739. | Nov. | Martin Wright, vice W. Thomson. |
| 1740. | Feb. | (?) William Kynaston, cursitor, vice G. Clive. |
| | May. | James Reynolds (2), vice T. Parker. |
| XIV. | Nov. | Thomas Abney, vice M. Wright. |
| XVI. 1743. | Feb. | Charles Clarke, vice T. Abney. |
| XVII. 1744. | May. | Edward Barker, cursitor, vice G. Clive or (?) W. Kynaston. |
| XVIII. 1745. | April. | Edward Clive, vice L. Carter. |
| XXI. 1747. | June. | Heneage Legge, vice J. Reynolds. |
| XXIII. 1750. | May. | Sidney Stafford Smythe, vice C. Clarke. |
| XXVI. 1753. | Feb. 3. | Richard Adams, vice E. Clive. |
| XXVIII. 1755. | April. 22. | John Tracy Atkins, cursitor, vice E. Barker. |
| XXXIII. 1759. | Sept. | Richard Lloyd, vice H. Legge. |

At the end of the reign the barons of the Exchequer were

Sir Thomas Parker, chief baron,
Sir Sidney Stafford Smythe, Sir Richard Adams,
Sir Richard Lloyd, John Tracy Atkins, Esq., cursitor.

Cursitor Baron George Clive having died on December 31, 1739, the "Gentleman's Magazine" announced that William Kynaston, the master in Chancery, was appointed to the office in February 1740;—and in "Beatson's Political Index" (ed. 1788) his name is so recorded. But in the absence of any patent to Mr. Kynaston, and in the omission

of his name in the agenda book of the Exchequer, it seems probable that, if he held the office at all, he only officiated temporarily till the vacancy was supplied, especially as the patent to Edward Barker in 1744 refers to George Clive as "lately deceased," and does not mention Mr. Kynaston.

The removal of Cursitor Baron Thompson to a seat on the bench as a baron of the coif, is the only instance of such a promotion.

When the court of Exchequer sat in equity the chancellor of the Exchequer was constitutionally chief judge; and on the day of his being sworn into office he takes his seat on the bench and some motion of course is made before him. In 1732, whilst Sir Robert Walpole held the office, he heard a cause in which Chief Baron Reynolds and Baron Comyns were of one opinion, and Barons Carter and Thomson were of the contrary, and in a learned speech gave his decision. In 1735 an equal division of the ordinary court obliged him to pursue the same course.[1]

COURT OF CHANCERY.

| A.R. | A.D. | LORD CHANCELLORS, &c. | MASTERS OF THE ROLLS. |
|---|---|---|---|
| 1 | 1727. June. | Peter, Lord King, *Chancellor* | Sir Joseph Jekyll. |
| 7 | 1733. Oct. 9. | — | Hon. John Verney. |
| | Nov. 29. | Charles Talbot, *Chancellor* | — |
| | Dec. 5. | *cr.* Lord Talbot | — |
| 10 | 1737. Feb. 21. | Philip, Lord Hardwicke, *Chancellor* | — |
| 15 | 1741. Nov. 5. | — | William Fortescue. |
| 23 | 1750. Jan. 11. | — | Sir John Strange. |
| 27 | 1754. April 2. | *cr.* Earl of Hardwicke | — |
| | May 29. | — | Sir Thomas Clarke. |
| 30 | 1756. Nov. 9. | Sir John Willes, Ch. C. P. } *Commissioners* | |
| | | Sir Sidney Stafford Smythe, B. E. } *Commissioners* | — |
| | | Sir J. Eardley Wilmot, Just. K. B. } *Commissioners* | — |
| 91 | 1757. June 30. | Sir Robert Henley, *Keeper* | — |
| 33 | 1760. March 27. | *cr.* Lord Henley | |

[1] Manning's Serv. ad legem, 174; Gent. Mag. ii. 825, v. 618.

## Court of King's Bench.

| A. R. | A.D. | Chief Justices. | Judges of the King's Bench. | | |
|---|---|---|---|---|---|
| 1 | 1727. June. | Robert Raymond | J. Fortescue Aland | James Reynolds | Edmund Probyn. |
| | Sept. | — | Francis Page | — | — |
| 3 | 1730. June. | — | — | William Lee | — |
| 4 | 1731. Jan. 31. | *cr.* Lord Raymond | — | — | — |
| 7 | 1733. Oct. 31. | Philip Hardwicke | — | — | — |
| | Nov. 23. | *cr.* Lord Hardwicke | — | — | — |
| 10 | 1737. June 8. | William Lee | — | William Chapple | — |
| 14 | 1740. Nov. 28. | — | — | — | Martin Wright. |
| | 1741. Feb. 10. | — | Thomas Denison | — | — |
| 18 | 1745. April 22. | — | — | Michael Foster | — |
| 27 | 1754. May 2. | Dudley Ryder | — | — | — |
| 28 | 1755. Feb. 3. | — | — | — | J. Eardley Wilmot. |
| 30 | 1756. Nov. 8. | Wm. Lord Mansfield | — | — | — |

## Court of Common Pleas.

| A.R. | A.D. | Chief Justices. | Judges of the Common Pleas. | | |
|---|---|---|---|---|---|
| 1 | 1727. June. | Robert Eyre | Robert Price | Francis Page | Alexander Denton. |
| | Oct. 24. | — | — | Spencer Cowper | — |
| 2 | 1729. Jan. 27. | — | — | J. Fortescue Aland | — |
| 6 | 1733. April. | — | Thomas Reeve | — | — |
| 9 | 1736. Jan. | Thomas Reeve | John Comyns | — | — |
| 10 | 1737. Jan. | John Willes | — | — | — |
| 12 | 1738. July 7. | — | William Fortescue | — | — |
| 13 | 1740. April 21. | — | — | — | Thomas Parker. |
| 15 | 1741. Oct. | — | Thomas Burnet | — | — |
| 16 | 1743. Feb. | — | — | — | Thomas Abney. |
| 19 | 1746. June. | — | — | Thomas Birch | — |
| 23 | 1750. May. | — | — | — | Nathaniel Gundry. |
| 26 | 1753. Jan. | — | Edward Clive | — | — |
| 27 | 1754. May 2. | — | — | — | Henry Bathurst. |
| 30 | 1757. March. | — | — | William Noel | — |

## Court of Exchequer.

| A.R. | A.D. | Chief Barons | Barons of the Exchequer. | | |
|---|---|---|---|---|---|
| 1 | 1727. June. | Thomas Pengelly | Bernard Hale | Lawrence Carter | John Comyns. |
| 3 | 1729. Nov. 27. | — | William Thomson | — | — |
| | 1730. April 30. | James Reynolds | — | — | — |
| 9 | 1736. Feb. 9. | — | — | — | William Fortescue. |
| 12 | 1738. July 7. | John Comyns | — | — | Thomas Parker. |
| 13 | 1739. Nov. | — | Martin Wright | — | — |
| | 1740. May. | — | — | — | James Reynolds (2). |
| 14 | Nov. 28. | Edward Probyn | Thomas Abney | — | — |
| 16 | 1742. Nov. 29. | Thomas Parker | Charles Clarke | — | — |
| 18 | 1745. April. | — | — | Edward Clive | — |
| 21 | 1747. June. | — | — | — | Heneage Legge. |
| 23 | 1750. May. | — | Sidney Stafford Smythe | — | — |
| 26 | 1753. Feb. 3. | — | — | Richard Adams | — |
| 33 | 1759. Sept. | — | — | — | Richard Lloyd. |

### Cursitor Barons.

| | | | | | |
|---|---|---|---|---|---|
| 1727. | June. | William Thomson. | 1740. | Feb. | William Kynaston(?). |
| 1729. | Dec. 11. | John Birch. | 1744. | May. | Edward Barker. |
| 1735. | Nov. 6. | George Clive. | 1755. | April 22. | John Tracy Atkins. |

The salaries of the puisne judges and barons received an increase of 500*l.* a year by Stat. 32 Geo. II., c. 35, s. 9; and of the chief baron of 1000*l.* a year.

The custom of knighting the judges upon their appointment was not at this time universally practised. Chief Baron James Reynolds and Justices Robert Price, Alexander Denton, Spencer Cowper, William Fortescue, Charles Clarke, Nathaniel Gundry and William Noel, do not appear to have ever received the distinction; besides some, who as sons of peers were of course omitted; and the knighthood of Sir William Lee, Sir Martin Wright, Sir James Reynolds (the baron), Sir Thomas Burnet, and Sir Thomas Denison, was delayed till several years after their promotion to the bench; the last four receiving it together, upon going up with the inns of court to present an address on the occasion of the rebellion in 1745. Towards the winter relief and support of the soldiers engaged in the suppression of that rebellion, the judges afterwards subscribed 1200*l.*[1]

An engraving from a painting by Gravelot represents the interior of Westminster Hall during this reign, with three of the courts in the hall; the courts of Chancery and King's Bench at the upper end, and the court of Common Pleas on their left hand side. That part of the wall, not occupied by the latter court, was filled with shops or stalls for the sale of books and fancy articles, as well as the whole length of the opposite side.

In March 1735 the Thames rose so high that the Hall was overflowed, and the lawyers were conveyed away in boats. Henry Fielding alludes to this event in his dramatic satire of "Pasquin," where Law says:

> "We have our omens too. The other day
> A mighty deluge swam into our Hall,
> As if it meant to wash away the law:

[1] Gent. Mag. xv. 612, 666.

Lawyers were forc'd to ride on porters' shoulders;
One, O prodigious omen! tumbled down,
And he and all his briefs were sous'd together."[1]

In July in the following year the hall was frightened out of its propriety by a sudden explosion in the court of Chancery. Under the idea that there was another gunpowder plot the judges, counsel, attorneys, and clients started from their places, and took to their heels in such confusion that wigs and gowns were discarded and left in the scuffle. On recovering their senses and examining into the cause of the tumult, the remains of a bag were found, in which gunpowder had been placed, for the purpose of blowing up five unpopular acts of parliament, and of dispersing vast numbers of a handbill describing them "as destructive of the product, trade and manufacture of the kingdom, and tending to the utter subversion of the liberties and properties thereof." These five acts were, the Gin Act,—the Mortmain Act,—the Act for building Westminster Bridge, - the Smugglers Act,—and the Act to apply 600,000*l.* of the Sinking Fund to the service of the year. How the fire was applied to the gunpowder nobody could discover; but so indignant were Lord Chancellor Talbot and Lord Hardwicke at this insult, that a royal proclamation was issued, and a strict inquiry instituted for its perpetrator. He was at last discovered to be one Nixon, a poor half-mad, non-juring parson, who was fined and imprisoned for the offence. The whole affair was the subject of a debate in the ensuing parliament.

The wits of Westminster Hall seem to have been peculiarly lively, and give us an idea that there were as many briefless barristers in the reign of George II. as encumber the back seats of the different courts at the present day. One of them produced a satire entitled "The Causidicade, a

[1] Ireland's Inns of Court, 251.

[2] Lord Hervey's Memoirs, ii. 136; Parl. Hist. ix. 1281, *et seq.*

Panegyri-serio-comic-dramatical Poem, on a *Strange* Resignation, and a stranger Promotion; by Porcupine Pelagius:" on the occasion of Sir John Strange resigning the office of solicitor-general in 1742, and the appointment of the Hon. William Murray (afterwards Lord Mansfield) as his successor. It professes to give the pleadings of the various candidates, detailing their different claims and qualifications for the post, before the president of the supposed court, the then Lord Chancellor Hardwicke. It quizzes no less than thirty-four individuals, five of the then existing judges being incidentally introduced, and seven who were afterwards promoted to the bench; the respective victims being portrayed with their distinguishing characteristics; and the whole forming a very amusing picture. Two lines of it prove that a custom then existed which has only been discontinued within the latter half of the present century. The chancellor is represented as daintily wielding

> "A nosegay compos'd of the flow'rs of the field,
> And eke of the garden."

### ATTORNEY-GENERALS.

| | |
|---|---|
| I. 1727. June | Sir Philip Yorke, made Ch. K. B. |
| VII. 1734. Jan. | John Willes, Esq., made Ch. C. P. |
| X. 1737. Jan. | Dudley Ryder, Esq., made Ch. K. B. |
| XXVII. 1754. May. | Hon. William Murray, made Ch. K. B. |
| XXX. 1756. Nov. | Sir Robert Henley, made lord keeper. |
| XXXI. 1757. June. | Sir Charles Pratt. |

### SOLICITOR-GENERALS.

| | |
|---|---|
| I. 1727. June | Charles Talbot, Esq., made lord chancellor. |
| VII. 1734. Jan. | Dudley Ryder, Esq., made attorney-general. |
| X. 1737. Hil. | John Strange, Esq., resigned. |
| XVI. 1742. | Hon. William Murray, made attorney-general. |
| XXVII. 1754. May. | Sir Richard Lloyd, removed. |
| XXX. 1756. Nov. | Hon. Charles Yorke. |

## Serjeants-at-Law.

The added initial marks the inn of court to which they belonged; and those who became judges are distinguished by a *.

I. 1727. *Spencer Cowper (L.) Edward Corbet (L.)
III. 1729. *William Thomson (M.)
IV. 1730. *William Lee (I.) *Thomas Birch (I.)
VII. 1733. *Philip Yorke (M.) *Thomas Reeve (M.)
*Martin Wright (I.)
IX. 1736. *Thomas Parker (I.) John Agar (M.)
Thomas Hussey (M.) Richard Draper (G.)
Abraham Gapper (L.) R. Johnson Kettleby (M.)
*Robert Price (M.) William Hayward (M.)
*Michael Foster (M.) Samuel Prime (M.)
*Thomas Burnet (M.) Thomas Barnardiston (M.)
William Wynne (M.) Edward Bootle (L.)
Motto, "Nunquam libertas gratior."
*William Fortescue (I.)
X. 1737. *John Willes (L.)
XIV. 1740. *James Reynolds (L.) *Thomas Abney (I.)
XV. 1742. *Thomas Denison (I.) Edward Leeds.
XVI. 1743. *Charles Clarke (L.)
XVIII. 1745. *Edward Clive (L.) William Eyre.
XXI. 1747. *Heneage Legge (I.) David Poole.
Motto, "Mens bona, fama, fides."
XXIV. 1750. *Nathaniel Gundry (L.) *Sidney Stafford Smythe (I.)
Motto, "Libertas, fides, veritas."
XXVI. 1753. *Richard Adams (I.) George Wilson.
XXVII. 1754. *Dudley Ryder (M.) *Henry Bathurst (L.)
Motto, "Venturo prospicit ævo."
XXVIII. 1755. *John Eardley Wilmot (I.) *James Hewitt (M.)
Lomax Martin. William Davy.
Motto, "Diu intersit populo."
XXX. 1756. *William Murray (L.)
Motto, "Servate Domum."
1757. *William Noel (M.) Thomas Stanyforth (I.)
James Foster (G.)
Motto, "Avi munerentur avorum."
XXXII. 1759. William Whitaker *George Nares (I.)
Anthony Keck.
Motto, "Te metuant tyranni."
XXXIII. *Richard Lloyd.
Motto, "In dubiis rectus."

## KING'S SERJEANTS.

| | | |
|---|---|---|
| III. 1729. | *William Chapple. | |
| IX. 1736. | *Thomas Parker (I.) | Giles Eyre. |
| XIV. 1740. | *Thomas Burnet (M.) | |
| XVIII. 1745? | *Thomas Birch (I.) | Matthew Skinner. |
| | Samuel Prime. | Edward Willes. |
| XX. 1747. | Edward Leeds. | |
| XXX. 1757. | David Poole. | |
| XXXII. 1759. | *James Hewitt (M.)[1] | William Whitaker. |
| | *George Nares (I.) | |

A proposition was made in 1755 by Lord Chief Justice Willes that the Court of Common Pleas should be opened to all barristers: but the rest of the judges, as well as Lord Hardwicke, strongly opposed this encroachment on the ancient privileges of the serjeants, and unanimously rejected the scheme. Before another century had elapsed however the alteration was effected without any practical inconvenience.

During this reign there seems to have been only one general call; the remaining serjeants, with some few exceptions, being appointed on promotion to the bench. At that call the feast was in Middle Temple Hall, and it appears from Serjeant Wynne's account, that the expense to each of the fourteen serjeants was 185*l.*; the aggregate bill for robes being 360*l.*; for the dinner 315*l.*; for the rings (1409 in number) 773*l.*; for wine 334*l.*; for the use of Serjeants' Inn 500*l.*; the rest being made up by the cost of biscuits, music, and small fees.[2]

The lease of Serjeants' Inn, Fleet Street, which was granted by the dean and chapter of York in 1670 for sixty years, came to a termination in September 1730. Up to that time it had been inhabited by some of the judges and serjeants, and occasionally used for judicial conferences: but

[1] He resigned his patent in 1764.

[2] Wynne's Serj. at Law, 10, 114; Manning's Serv. at Legem, 22.

then the division of the order into two bodies being found to be inconvenient, it was determined not to renew the lease. Two years previous to the expiration of the term, a conference was held between the judges and serjeants of this society and that of Chancery Lane, in which the expediency of erecting a public building on some convenient spot for the benefit of both societies, was discussed. This project was however given up; and the result was the junction of the two societies in Serjeant's Inn, Chancery Lane. That in Fleet Street being evacuated, the whole was pulled down, and the site was devoted to private dwellings, as it now appears.

About this time a custom was introduced of granting patents of precedence to such barristers as the Crown considered proper to honour with that mark of distinction, instead of appointing them king's counsel. It probably originated in the division of parties, and the disinclination of the sovereign to name those as his own counsel who were opposed to his ministry, and yet who by their talents or command of business had obtained a lead in the courts. They were entitled to wear a silk gown and to sit within the bar; and their places were generally assigned next after the existing king's counsel. The only real distinction between them and the king's counsel was the privilege of being retained in causes against the crown. The fees payable on these patents in the reign of Queen Victoria amounted to 63*l.* 11*s.* 6*d.*

In the following list of king's counsel, those who held patents of precedence as ranking with them, are included; and for greater convenience, an alphabetical arrangement has been adopted.

Thomas Abney.
Richard Aston.
Henry Banks.
Henry Bathurst.
Thomas Bootle.
A. Hume Campbell.

| | |
|---|---|
| Thomas Clarke. | William Noel. |
| William De Grey. | Fletcher Norton. |
| William Fortescue. | George Perrott. |
| Henry Gould. | Charles Pratt. |
| Nathaniel Gundry. | Thomas Reeve. |
| Eliab Harvey. | Thomas Sewell. |
| Robert Henley. | Sidney Stafford Smythe. |
| Paul Joddrell. | John Strange. |
| Matthew Lamb. | John Trevor. |
| Heneage Legge. | John Verney. |
| Richard Lloyd. | Edward Willes. |
| John Morton. | Charles Yorke. |

LINCOLN'S INN.—A tremendous fire occurred in the New square of this Inn in June 1752, destroying the chambers of several eminent lawyers, among which were those of the Hon. Charles Yorke, the son of the chancellor, and with them unfortunately a large collection of the MSS. of Lord Somers. The inconvenience occasioned by it was so great that Lord Hardwicke was obliged to suspend all proceedings in his court.[1]

THE TEMPLES.—The deed of 1732 between the two societies declaratory of the property belonging to each, has been already noticed in Vol. V. p. 26.

INNER TEMPLE.—A great fire also occurred in the Temple in January 1737, by which upwards of twenty chambers were destroyed.

This society commemorated the elevation of Lord Talbot, a member of their house, to the chancellorship, by one of those ancient revels, which had been for some time past discontinued. It took place on Candlemas day, 1734, Mr. Wollaston acting as master of the revels, and Mr. Baker as master of the ceremonies; and commenced between two and three o'clock with a grand dinner, fourteen students of the house attending as waiters, among whom was Mr. Talbot, the chancellor's son. By means of these honorary attendants,

[1] Gent. Mag. xxii. 287, 333.

the barristers and students, for whom only the customary fare was provided, obtained an ample supply of the good things from the upper table; and were further feasted with a flask of claret for each mess, besides the common allowance of port and sack. As soon as the dinner was ended, Congreve's comedy of "Love for Love" was performed, followed by Coffey's farce of "The Devil to Pay" then recently produced: the actors coming ready dressed in chairs from the Haymarket, and refusing to receive any gratuity for their trouble. After the play the old ceremony of the solemn dance, or rather march, round about the coal fire three times was revived; the master of the revels taking the lord chancellor by the hand, and he the eldest judge, and so through the whole company of judges, serjeants, and benchers: the procession being enlivened by the ancient French song, accompanied by music, sung by Toby Aston in a bar gown. The Prince of Wales came *incog.* to witness the ceremony from the music gallery. Retiring as soon as it was over, his absence was speedily supplied by a large company of ladies, who had graced the entertainment with their presence in the gallery, and then came down into the hall, and joining in minuets and country dances with the younger students earned the "very fine collation," with which the evening concluded.[1] The prince was the last royal personage who honoured the Inns of Court by attending at their entertainments for more than a century. In 1845 Queen Victoria opened the new Hall in Lincoln's Inn; and her son the Prince of Wales in 1861 paid the same compliment on opening the new library of the Middle Temple.

Staple Inn.—There seems to have been an epidemic of conflagration among the haunts of the lawyers during this reign. In 1756 the pension chamber and several other

[1] Notes to Wynne's Eunomus, iv. 105.

buildings of this Inn were consumed by fire. They were insured for 680*l.* 16*s.* 6*d.*, and the rebuilding cost 1053*l.*

A curious volume was published by Henry Lintot in 1742, of "The Reports of Sir Edward Coke, Knt., in verse, wherein the name of each case, and the principal points are contained in two lines." We are not aware that this abridgment has ever been quoted in Court, but it assisted the memory of the student, and was made more useful by the tables and references which are annexed to it.

# BIOGRAPHICAL NOTICES

OF

THE JUDGES UNDER THE REIGN OF GEORGE II.

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## ABNEY, THOMAS.

B. E. 1740. Just. C. P. 1743.

The Abneys were originally seated, almost from the time of the Conquest, at a village of that name in Derbyshire. They afterwards settled at Willesley in the same county; and the judge was the son of Sir Edward Abney, LL.D., of that place, an eminent civilian and member of parliament for Leicester in 1690 and 1695, and the nephew of Sir Thomas Abney the famous lord mayor of London in 1701, whose virtues are celebrated in an elegy by Dr. Isaac Watts.[1] His mother was Judith, daughter and co-heir of Peter Barr, a London merchant. He commenced his career in the legal profession at the Inner Temple in 1697, put on his bar gown in 1713, and was made a bencher of that society in 1733.

Being placed on the commission of the peace for Middlesex he was so well reputed among his colleagues that in February 1731 he was chosen for their chairman of the quarter sessions at Hicks's Hall. In 1733 he was one of the commissioners to inquire into the fees, &c. of the officers of the Exchequer; and in the same year he received the appointment of attorney-general for the Duchy of Lancaster, with the grade of king's counsel. From this he was advanced

[1] Funeral Sermon, by Jer. Smith, 1722.

in December 1735 to be judge of the Palace Court and steward of the Marshalsea, and was then knighted. At the same time he was in full practice, and among the causes in which he distinguished himself was that of Moore *v.* The Corporation of Hastings, in which he established the right of the eldest son of a freeman to be admitted a freeman of the borough.[1]

By this progressive advance in the honours of his profession, his ultimate elevation to the bench at Westminster might easily be foreseen. It was not long delayed, for on the transfer of Mr. Baron Wright from the Exchequer to the King's Bench, Sir Thomas Abney was selected to supply his place in the former court in November 1740. In little more than two years he was removed in February 1743 to the Common Pleas. There he sat for the rest of his life, which was terminated by one of those afflicting visitations, too commonly occasioned by the infamous manner in which the common gaols were then conducted, and the confined construction of the criminal courts. The Black Sessions at the Old Bailey in May 1750 will be long remembered. An unusually large number of prisoners were arraigned, all most uncleanly and some suffering from the gaol distemper; and a great concourse of spectators were crowded in the narrow court to hear the trial of Captain Clarke for killing Captain Innes in a duel. These, added to the filthy state of the rooms in connection with the court, so tainted the air, that many of those assembled were struck with fever, of whom no less than forty died. Of the judges in the commission only the chief justice (Lee) and the recorder (Adams) escaped. Those who fell a sacrifice to the pestilence were Mr. Justice Abney, who died May 19, Mr. Baron Clarke, who died on the 17th, Sir Samuel Pennant, lord mayor, and

[1] Strange, 1070; State Trials, xvii. 845.

Alderman Sir Daniel Lambert; besides several of the counsel and jurymen.

The following lines, taken from a copy of verses published soon after the mournful event, afford some evidence of the estimation in which Sir Thomas's character was regarded:—

"Yes, 'tis a glorious thought! The worthy mind,
Matur'd by wisdom, and from vice refin'd,
In various scenes of social life approv'd,
Of men the lover, and by men belov'd,
Must, sure, divested of its kindred clay,
Soar to the regions of empyreal day.
"Such Abney shone; to deck whose mournful hearse,
The Muse lamenting pays her grateful verse,
The Muse long wont to love, as to revere,
The judge impartial, and the friend sincere!
How has she oft with fix'd attention hung
On the great truths that grac'd his flowing tongue!
Truths, that he joy'd with candid warmth to draw
Fair from the moral, as the Christian law.
How oft beheld him glad the friendly scene,
Without all cheerful, and all calm within;
And, far from mad ambition's noisy strife,
Taste the pure blessings of domestic life!
How oft in him, with pleasing wonder, view'd
A soul, where lawless passions sank subdued,
Where virtue still her rightful rule maintain'd,
While generous zeal, by bigotry unstain'd,
And freedom, that protects with watchful care
Man's sacred rights, serenely triumph'd there!"

Though this may seem the effusion of personal affection, the truth of the delineation is confirmed by the more dispassionate testimony of that eminent judge, Sir Michael Foster, who in his report of the Trial of the Rebels (p. 75), after designating Sir Thomas Abney as "a very worthy man, learned in his profession, and of great integrity," proceeds thus:—"He was through an openness of temper, or a pride of virtue habitual to him, incapable of recommending himself to that kind of low assiduous craft, by which we

have known some unworthy men make their way to the favour of the great. . . . In his judicial capacity he constantly paid a religious regard to the merits of the question in the light the case appeared to him; and his judgment very seldom misled him. In short when he died, the world lost a very valuable man, his majesty an excellent subject, and the public a faithful able servant."

He married Frances, daughter of Joshua Burton of Brackley in Northamptonshire, and by her he left a son, Thomas, whose only daughter married General Sir Charles Hastings, Bart. Their descendants have assumed the name of Abney, in addition to their own, and possess Willesley Hall, the judge's seat. Another branch of the Abney family is seated at Measham Hall in the same county.[1]

## ADAMS, RICHARD.

B. E. 1753.

*See* under the Reign of George III.

## ALAND, JOHN FORTESCUE, afterwards LORD FORTESCUE.

JUST. K. B. 1727. JUST. C. P. 1729.

*See* under the Reign of George I.

HUGH FORTESCUE, the grandfather of this judge, was the seventh in lineal descent from the illustrious chief justice of Henry VI. His second son, Arthur, was the grandfather of the first Lord Fortescue of Castle Hill, to which the earldom now enjoyed by his successors was added in 1789. Hugh's third son, Edmond, by his marriage with Sarah, daughter of Henry Aland, Esq., of Waterford, whose name he added to his own, was the judge's father.

John Fortescue-Aland was born on March 7, 1670. Oxford has been supposed to be the place of his education, as he received from that university the honorary degree of

[1] Gent. Mag. at the respective dates; Burke's Landed Gentry.

doctor of civil law on May 4, 1733. But the language of that diploma leads to a different conclusion, and no trace is to be found of him in the register of matriculations.[1] In 1688 he became a member of the Middle Temple, but afterwards removed to the Inner Temple; and having been called to the bar in 1712, arrived at the post of reader in 1716. In October 1714, immediately after the arrival of George I., he was appointed solicitor-general to the Prince of Wales (afterwards George II.), from which he was promoted in December of the following year to be solicitor-general to the king.[1] He was chosen member for Midhurst in the first parliament of George I., but only sat during its first session, being raised to the bench before the commencement of the next. This event occurred on January 24, 1717, when he was sworn a baron of the Exchequer and knighted; having but two days before assisted at the trial of Francis Francia for high treason. He occupied that seat for little more than a year; and one of his last duties as a baron was to give his opinion respecting the education and marriage of the royal family, his argument on which is fully reported by himself, and, though he had been one of the law officers of the Prince of Wales, was decidedly in favour of the prerogative of the crown. Soon after, on May 15, 1718, he was removed to the King's Bench on the elevation of Chief Justice Sir John Pratt. In that court he sat till the death of George I. on June 11, 1727; but George II. about the middle of September, perhaps on account of the above opinion against his claim, superseded him.[3]

Sir John's retirement having lasted fifteen months, he was restored to favour, and on the death of Mr. Justice Cowper

[1] Chalmers' Biog. Dict.; Professor Stanley (now Dean of Westminster) kindly furnished me with the only passages in the diploma which have any relation to the University.

[2] Lord Raymond, 1318; Strange, 1.

[3] State Trials, xv. 975, xvi. 1206; Strange, 86; Lord Raymond, 1510.

was placed in the Common Pleas on January 27, 1729. There he continued for above seventeen years, when his age and infirmities warned him to resign; which he did in June 1746. He had for some time previously been in such a state of health that he could not go the circuit, even in the summer season; and so long before as 1741 he had petitioned for leave to retire with a pension, accompanied by the inconsistent request that a seat in the House of Commons might be obtained for him.[1] When at last permitted to resign, after a service in all the three courts extending to twenty-eight years, his senatorial ambition was gratified by the grant of a barony in the Irish peerage in August following his resignation. His title was Lord Fortescue of Credan in the county of Waterford; but he enjoyed it for little more than four months, dying in his seventy-seventh year on December 19, 1746.

In addition to his reputation as an excellent lawyer and an able and impartial judge, he had the character of being well versed in Norman and Saxon literature. This he fully maintained in the introductory remarks to his edition of the treatise of his illustrious ancestor Sir John Fortescue, entitled "The Difference between an Absolute and Limited Monarchy," which he published in 1714, being then a Fellow of the Royal Society. His Law Reports of Select cases were prepared for publication before his death, but not printed till 1748. His judgments may be found in Lord Raymond, Strange, and other reporters. Of his manner on the bench the following illustration in Bentley's case may serve as an example. "The laws of God and man," he said, "both give the party an opportunity to make his defence if he has any. I remember to have heard it observed by a very learned man, that even God himself did not pass sentence upon Adam, before he was called upon to make his

[1] Harris's Life of Lord Hardwicke, i. 484, 487, 511.

defence. Adam (says God) where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat? And the same question was put to Eve also." Of his appearance, the "Conveyancer's Guide" (p. 107) gives this description while he was in the Exchequer:—"The baron had one of the strangest noses ever seen; its shape resembled much the trunk of an elephant. 'Brother, brother,' said the baron to the counsel, 'you are handling the cause in a very lame manner.' 'Oh! no, my lord,' was the reply, 'have patience with me, and I'll make it as plain as the nose in your lordship's face.'"

He was himself long involved in law, the Reports detailing proceedings from 3 Geo. I. to 19 Geo. II. between him and Aland Mason, relative to some property of his maternal grandfather. The "Gentleman's Magazine" for 1741 also notices the termination in the House of Lords of a suit which had been depending for ten years between him and John Dormer, a relation of his second wife, concerning the property of her father, in which he was unsuccessful.[1]

Lord Fortescue's first wife was Grace, daughter of Chief Justice Pratt, by whom he had two sons, who died unmarried in their father's lifetime. His second wife was Elizabeth, daughter of Mr. Justice Dormer, by whom he left a son, his successor in his title and estates, one of which was Lamborn Hall in Essex; on whose death in 1781 without issue, the peerage expired.[2]

## ATKYNS, JOHN TRACY.

Curs. B. E. 1755.

*See* under the Reign of George III.

[1] Strange, 567, 861, 1258; Lord Raymond, 1433; Gent. Mag. xi. 106.
[2] Collins' Peerage, v. 344; Biog. Dict. by Chalmers and by Rose.

## BARKER, EDWARD.

CURS. B. E. 1744.

OF the lineage of this officer I am ignorant. He was born at Wandsworth in 1678, and was called to the bar at the Inner Temple, of which he was not admitted a member till 1724; but was one of the benchers of that society when he was appointed cursitor baron of the Exchequer on May 9, 1743. He resigned the place on April 19, 1755, and was succeeded by John Tracy Atkyns. He died in 1759.[1]

## BATHURST, HENRY.

JUST. C. P. 1754.

*See* under the Reign of George III.

## BIRCH, JOHN.

CURS. B. E. 1729.

THE pedigree of the family of Birch of Birch, near Manchester, can be traced from the latter part of the reign of King John: and one of its branches settled at Ardwick in the same neighbourhood. The representatives of both in the Great Rebellion distinguished themselves on the parliament side. That of Birch was Colonel Thomas Birch, member for Liverpool in the Long Parliament; and that of Ardwick, with which this memoir is more immediately concerned, was the more famous Colonel John Birch, whose eminent services were rewarded with many important distinctions and commands, and with the appointment at various times of high steward of Leominster and governor of Bridgewater and Hereford, both of which towns he had been instrumental in taking. He was elected to represent the borough of Leominster in the Long Parliament on a vacancy in 1646, but was excluded from it and imprisoned, by Pride's Purge in

[1] Lysons, i. 507, 570; Gent. Mag. xiii. 390, xxv. 184, 237.

1648, for voting "that the king's answers to the propositions of both houses were a ground of peace." He of course was not one of Cromwell's Barebones' Parliament, but was member of every other during the interregnum, either for the city of Hereford or for Leominster; and took an active part in preparing for the king's return. In the Convention Parliament of 1660 he represented Leominster, and was elected for Weobly in the three last parliaments of Charles II.; and again in the Convention Parliament of 1689, and then till his death in 1691. By his will he bequeathed his estates to his youngest daughter, Sarah, on condition that she should marry her cousin John, the subject of this sketch; who soon after the marriage had taken place threatened to bring an action against the Bishop of Hereford for defacing the inscription on the colonel's monument, which the bishop thought contained words "not right for the church institution." [1]

This John was the second son of the Colonel's brother, the Rev. Thomas Birch, rector of Hampton Bishop in Herefordshire, and afterwards vicar of Preston in Lancashire, by his wife Mary. He commenced his legal career at Gray's Inn in 1680, but in 1686 he transferred himself to the Middle Temple, by which society he was called to the bar in 1687. His uncle's former constituents at Weobly returned him as their member to the parliament of 1700, and to all the subsequent parliaments, except one, till his death. His senatorial exertions have not been deemed worthy of record, and the only mention of his name in parliamentary history is connected with a disreputable transaction. He had been appointed one of the commissioners for the sale of the estates forfeited by the rebels of 1715; and in reference to those belonging to the Earl of Derwentwater had assisted in a most corrupt and illegal transfer. The transaction was declared

[1] Whitelocke's Mem. 184; Parl. Hist. iii. 1428; Ath. Oxon. Life, cxviii.

void, and for the notorious breach of trust Birch was expelled the house in March 1732. He however had sufficient influence with his constituents to be re-elected in the new parliament that met in January 1735, but he died before the end of the year.[1]

In the progress of his profession he had been included in the batch of serjeants called in 1706; and before the discovery of the above disgraceful transaction had been, on December 11, 1729, made cursitor baron of the Exchequer, in the place of Sir William Thomson, then removed from that office to a judicial seat in the same court. For neither of these appointments was there any precedent, no previous cursitor baron having been raised to the higher judicial position; and no serjeant-at-law having been placed in the court of Exchequer except as a baron of the coif. He remained in the office till his death in October 1735, when he was succeeded by George Clive, Esq., of Lincoln's Inn.[2]

After the death in 1701 of his first wife Sarah, he married secondly Letitia Hampden of St. Andrew's, Holborn; but had no children by either.[3]

## BIRCH, THOMAS.

Just. C. P. 1746.

Birch of Birchfield in the parish of Handworth near Birmingham, the family from which this judge sprang, flourished in the early part of the reign of Queen Elizabeth. Thomas Birch was born at Harborne in the same neighbourhood in 1690, and was the eldest son of George Birch and Mary his wife, the daughter of Thomas Foster, Esq. Destined for the law, he took his barrister's degree at the Inner Temple, and receiving the coif in June 1730, was made one

[1] Parl. Hist. viii. 1026, 1065; Parl. Reg. (1741), 251.
[2] Pat. 3 Geo. II. p. 1.
[3] Chapel of Birch (Chetham Soc.) 70, 113, 120.

of the king's serjeants before November 23, 1745. He is so named on going up with the judges' address to the king on occasion of the rebellion; when he received the honour of knighthood. In that year he served the office of high sheriff of Staffordshire; and in June following he was raised to the bench as a judge of the Common Pleas, on the resignation of Sir John Fortescue-Aland; and retained his seat for eleven years. He resided at Southgate near London; and died on March 15, 1757, leaving by his wife Sarah, daughter and co-heir of J. Teshmaker, Esq., three sons and two daughters. The family is still represented by his lineal descendant, who now resides at Wretham near Thetford in Norfolk.[1]

## BURNET, THOMAS.

Just. C. P. 1741.

Thomas Burnet was not the first of his family who obtained a seat on the judicial bench; his grandfather having acquired high legal eminence in the Scottish tribunal as Lord Cramond. His father was the celebrated Whig prelate, Gilbert Burnet, Bishop of Salisbury, whose exertions at the Revolution, the piety of whose life, and the value of whose works have thrown around him a lustre, which is rather brightened than diminished by the controversies which the latter occasioned. His mother was the bishop's second wife, Mrs. Mary Scott, a wealthy and accomplished Dutch lady of Scottish and noble extraction. Thomas Burnet was their third and youngest son, and was born about the year 1694. After being grounded at home in the elementary parts of learning, he was first sent to Merton College, Oxford, and afterwards in 1706 to the University of Leyden, where he studied for two years, and then visited Germany.

[1] Gent. Mag. xv. 612, xvi. 329, xxvii. 142; Burke's Land. Gentry.

Switzerland, and Italy. On his return he chose the law for his profession, entering himself at the Middle Temple in 1709.

His student life was divided between law and politics, and he acquired equal notoriety for the wildness of his dissipations, and for his genius and wit. Swift in one of his letters to Stella of 1712, speaking of the Mohocks when they terrified the town by their lawless and mischievous exploits, reports that "the Bishop of Salisbury's son is *said* to be of the gang." This, however, may have been only a current calumny of the day, which the Tory dean found pleasure in promulgating. The groundlessness of the report seems the more probable, inasmuch as at this period Burnet was issuing from the press no less than seven pamphlets against the administration, and in defence of the Whigs; and was engaged in the composition of several poetical pieces, which were not given to the world till long after his death;—occupations which would leave him little leisure for the imputed connexion. One of the pamphlets, entitled "A *certain* Information of a *certain* Discourse, that happened at a *certain* gentleman's house, in a *certain* county, written by a *certain* person then present, to a *certain* friend now in London; from whence you may collect the great *certainty* of the account," so stung the ministers that they imprisoned the author. There is no doubt that his course of life at this time was dissolute and licentious. A story is told that his father one day seeing him uncommonly grave, asked him the subject of his thoughts. "A greater work," replied he, "than your lordship's 'History of the Reformation.'" "What is that, Tom?" "My own reformation, my lord." The bishop expressed his pleasure, but at the same time his despair of it.

On the accession of George I. he wrote some other political squibs, now forgotten; and at his father's death he published the "character" of the bishop, with his last will. In 1715

he and Mr. Ducket wrote a travestie of the first book of the Iliad, under the title of "Homerides," which naturally procured them a place in Pope's "Dunciad." On the Whig party regaining power he was sent as consul to Lisbon, where he got involved in some dispute with Lord Tyrawley, the ambassador, and adopted a curious mode of ridiculing his noble antagonist. Having learned what dress his lordship intended to wear on a birthday, he provided liveries for his servants of exactly the same pattern, and appeared himself in a plain suit. He continued at Lisbon several years, and on his recall to England he published his father's "History of his own Time;" to the last volume of which he added a life of the Bishop.

Resuming his original profession, he was called to the bar in 1729, twenty years after his admission to the Middle Temple. He showed so much ability and met with such success that in 1736 he received the degree of the coif, and in 1740 was appointed king's serjeant. In October of the next year he succeeded Mr. Justice Fortescue on the bench of the Common Pleas, where he administered justice with a great reputation for learning and uprightness for nearly twelve years. He was not knighted till November 1745, when he and three of his brethren, who had not previously received that dignity, submitted to the ceremony, on the occasion of all the judges, serjeants, and barristers presenting an address to the king expressive of their "utter detestation of the present wicked and most ungrateful rebellion." He died unmarried on January 5, 1753, of the gout in his stomach, and was buried near his father in St. James's Church, Clerkenwell.

Whatever were the frailties of his youth, he redeemed them by his after life, commanding in the latter period the respect of the wise, as he had gained in the former the admiration of the wits who distinguished the reign of Queen

Anne. He rejoiced in the esteem of many friends, and his merits and his worth were recorded after his death in several publications. The declaration in his will that he had lived, as he trusted he should die, "in the true faith of Christ as taught in the Scriptures, but not as taught or practised in any one visible church that he knew of," occasioned much speculation at the time. But that he was a sincere Christian, unbiassed by sectarian prejudices, there can be little doubt, judging from the purity of his latter life, and his unostentatious bounty to the poor.[1]

## CARTER, LAWRENCE.

B. E. 1727.

*See* under the Reign of George I.

LAWRENCE CARTER was born at Leicester about 1672, of a family which originally came from Hitchin in Hertfordshire, where gravestones and other monuments to its members still remain. His father, who bore the same names, having projected the scheme of supplying Leicester with water, was chosen the representative of the borough in several parliaments of William III., of whom he was a firm supporter. His mother was Mary the daughter of Thomas Wadland, Esq., of the Neworke at Leicester, an eminent solicitor, in whose office her husband had been articled. Their son, after being called to the bar by the society of Lincoln's Inn, was elected recorder of his native town on September 1, 1697, and entered the House of Commons as its representative in the next year, and sat there till the death of William III. In 1710, and in the two following parliaments of 1714 and 1715, he was returned for Beeralston; and at the dissolution of the latter in 1722 he was again elected for Leicester: but history has preserved no record of his senatorial eloquence. His professional career was distinguished by his being ap-

[1] Life of Bishop Burnet; Chalmers' Biog. Dict. &c.

pointed in 1717 solicitor-general to the Prince of Wales, afterwards George II.; by receiving in 1724 the degree of the coif; and by being made soon after one of the king's serjeants; when he was knighted.

On September 7, 1726, he succeeded Mr. Baron Price as a baron of the Exchequer; retaining his recordership for the next three years. Thoresby relates of him that "a man whom the baron in a circuit condemned to die, escaped from the cart by the assistance of the multitude, going to the place of execution, and afterwards settled at Leicester near the baron . . . in Redcross Street, and became a useful member of society." The baron continued on the bench till his death on March 14, 1745, with the reputation of an upright judge. He was buried in the church of St. Mary de Castro, Leicester, where his monument is still to be seen; and dying a bachelor he left his estates to his half-brother Thomas Carter, Esq.[1]

## CHAPPLE, WILLIAM.

Just. K. B. 1737.

This judge was of a Dorsetshire family, and resided at Waybay House in the parish of Upway. Born about 1677, and adopting the law as his profession, he pursued the ordinary course of study with industry and intelligence. In 1722 he entered parliament as member for the borough of Dorchester, which he continued to represent till he was raised to the bench. We have no means of judging of his talents as a senator; but as a lawyer his reputation was high. Having been included in the call of serjeants in 1724, he was made a judge on the North Wales circuit in 1728; and on his

[1] Ex inf. William Kelly, Esq., of Leicester, who has kindly supplied me with extracts from the Borough Books, &c. Parl. Hist. v. 219, 255; Lord Raymond, 1420; Gent. Mag. xv. 164; Nichols' Leicester, i. 318; Thoresby's Leicester, 184.

appointment as king's serjeant in the following year he was knighted. On June 16, 1737, he was constituted a judge of the king's bench to fill the vacancy occasioned by the elevation of Sir William Lee; and occupied the seat for nearly eight years with credit and distinction. He died on March 15, 1745, aged sixty-eight, leaving by his wife, Trehane Clifton of Green Place, Wonersh, Surrey, four sons and two daughters, one of whom married Sir Fletcher Norton, afterwards Lord Grantley.[1]

## CLARKE, CHARLES.

B. E. 1743.

CHARLES CLARKE was the son of Alured Clarke of Godmanchester in Huntingdonshire, by Ann the fourth daughter of the Rev. Charles Trimnell, rector of Abbots Repton in Hampshire, and sister to the Bishop of Winchester of that name. In 1719 he was sent to Corpus Christi College, Cambridge, under the care of his brother Dr. Alured Clarke, then fellow, and afterwards Dean of Exeter. He took no degree, but in 1717 he entered Lincoln's Inn, and was in 1723 called to the bar, at which his previous application was rewarded by so large a share of practice, that he amassed a considerable fortune, enabling him to enlarge his paternal inheritance and to rebuild his residence at Godmanchester in a substantial and elegant manner. The neighbouring borough of Huntingdon elected him recorder in 1731; and he was returned member for the county on a vacancy occurring in 1739. In the new parliament called in December 1741 he was elected for Whitchurch in Hampshire; and in its second session he was raised to the bench, succeeding Sir Thomas Abney as baron of the Exchequer in Hilary Term 1743. At this time he was counsel for the Admiralty and

[1] Hutchins' Dorsetshire, i. 373, 596; Manning and Bray's Surrey, ii. 112; Strange, 1075; Burrow's S. C. 105, 177.

auditor of Greenwich Hospital, in which he was succeeded by Heneage Legge.

His judicial career was terminated seven years afterwards by an infectious fever caught at the Black Sessions at the Old Bailey in May 1750, already described in the memoir of Sir Thomas Abney, another victim of the uncleanliness of the prisons. His death occurred on the 17th, and he was buried at Godmanchester. His first wife was Anne, a daughter of Dr. Thomas Green, Bishop of Ely; and his second was Jane, daughter of Major Mullins of Winchester, who survived him. By both ladies he left issue.[1]

## CLARKE, THOMAS.

M. R. 1754.

*See* under the Reign of George III.

## CLIVE, EDWARD.

B. E. 1745. Just. C. P. 1753.

*See* under the Reign of George III.

## CLIVE, GEORGE.

Curs. B. E. 1735.

From the reign of Henry II. to the present time the family of Clive have flourished in honour and renown in Shropshire, deriving their name from the village of Clive in that county. At the end of the seventeenth century George, its representative, became possessed of Wormbridge in Herefordshire, by his marriage with Mary the daughter of Martin Husbands, Esq. They had three sons, of whom the eldest, Robert, was the grandfather of the great Lord Clive, whose son assumed the name of Herbert, and was created Earl of Powis, a title still graced in its present possessor. The third son, Edward, was the father of Sir Edward Clive, baron of

[1] Masters' Hist. of Corpus Christi Coll. Cambridge.

the Exchequer in this and the following reign: and the second son, George, was the cursitor baron.

Of him little that is worthy of record is known. He was born about 1666, and being destined for the law, he studied its rudiments at Lincoln's Inn, but obtained no eminence in the practice, though he was called to the bench of the society in October 1719.

His appointment to the office of cursitor baron of the Exchequer, succeeding John Birch deceased, took place on November 6, 1735. He filled it for four years, and dying unmarried on December 31, 1739, was buried in Lincoln's Inn. The patent granted to Edward Barker, of the same office, on May 9, 17 Geo. II., which would be May 9, 1744, states George Clive to have *lately* deceased. This would make a vacancy of more than five years; so that either the date of George Clive's death must be incorrect, or there must have been some other person (probably William Kynaston) appointed in the interim.[1]

## COMYNS, JOHN.

B. E. 1727. JUST. C. P. 1736. CH. B. E. 1738.

*See* under the Reign of George I.

THIS distinguished judge, whose excellent Digest of the Laws of England is daily referred to and recognised as authority by the bar and the bench, was born about the year 1667. His father William Comyns, a barrister of Lincoln's Inn, was descended from a family of that name seated at Dagenham in Essex; and his mother was Elizabeth daughter and co-heir of Matthew Rudd of Little Baddow in the same county. Their son John was educated in Queen's College, Cambridge, and became a student in his father's Inn in May 1683, where he took his degree of barrister in May 1690. Elected member of the House of Commons in the last par-

[1] Collins' Peerage, v. 543; Pat. 9 Geo. II.; Gent. Mag. x. 36.

liament of William III. for Malden, he represented that borough during the whole of the reign of Queen Anne, except from 1708 to 1710; and again in the second parliament of George I. in 1722, till he was promoted to the bench. During this long parliamentary life none of his speeches have been considered important enough to be reported.

As a lawyer he early laid the foundation of that character for learning and industry which he ultimately attained. The first case in his Reports is dated so soon as Hilary Term 1695. His reputation was soon established, and in 1706 he was summoned to the degree of serjeant. He travelled the Home circuit; and in 1719 he was counsel for the defence in the absurd prosecution for vagrancy instituted against a clergyman for preaching a charity sermon at Chislehurst in behalf of the poor children of a parish in London, four or five of them being present.

Notwithstanding his high repute as a lawyer, it was not till twenty years after he assumed the coif that he was promoted to the bench. On November 7, 1726, he was appointed a baron of the Exchequer, in the place of Sir Francis Page, who was removed into the Common Pleas. He remained in that court upwards of nine years, when on the death of Sir Robert Eyre he requested Lord Hardwicke, with whom he was on terms of intimacy, to procure his promotion to the chief justiceship of the Common Pleas. His lordship having discountenanced this application, Sir John, on the expected removal of Chief Baron Reynolds to the Common Pleas, applied for the post of chief baron; but that removal not taking place, he effected an exchange from the Exchequer to the Common Pleas in January 1736. On the resignation of Chief Baron Reynolds two years and a half after this, Sir John Comyns was at last gratified by being placed, on July 7, 1738, at the head of the court of

Exchequer, Lord Hardwicke being then chancellor. His presidency lasted little more than two years, his death occurring at the age of seventy-three on November 13, 1740. He was buried in the chancel of the church of Writtle near Chelmsford, where there is a monumental inscription to him, surmounted by his bust.[1]

The two works, the labour of his life, on which his fame as one of the greatest lawyers of his time is permanently established, did not see the light till some years after his death. His Reports, which terminate in his last year, were first published in 1744: and his Digest of the Laws of England was delayed till 1762. By the unanimous assent of the most eminent men in the profession, the latter is acknowledged to be the most accurate, methodical, and comprehensive abridgment of the law, profound in its learning and easy of reference to the authorities cited. Both of these works were edited on their last publication by Samuel Rose, Esq., the uncle of the present author, who too early was snatched from the prospect of a successful career.

Sir John married three times. His first wife was Anne, daughter and co-heir of Dr. Nathaniel Gurdon, rector of Chelmsford; his second was Elizabeth, daughter of —— Courthope of Kent; and his third was Anne, daughter of —— Wilbraham. Neither brought him any issue, and the last survived him for eighteen years. His estates passed after her death to his nephew John Comyns, who published his works.[2]

## COWPER, SPENCER.

JUST. C. P. 1727.

SPENCER COWPER was the second son of Sir William Cowper, Bart., and the younger brother of Earl Cowper, the eminent chancellor of Queen Anne and George I. Born in 1669, he

[1] State Trials, xv. 1412; Lord Raymond, 1420; Comyns' Reports, 587; Harris's Lord Hardwicke, i. 291, 305.

[2] Morant's Essex, ii. 60; Gent Mag. x. 571, lx. 390.

received his education at Westminster School, and having been called to the bar by the Society of Lincoln's Inn, he was fortunate enough to be immediately appointed by the corporation of London, in June 1690, comptroller of the Bridge House estates, a post of considerable responsibility, which entitled him to a residence at the Bridge House, in the parish of St. Olave, Southwark. There he lived for some years, and gained the respect of his neighbours by his exemplary conduct and social manners. There, too, he executed with great usefulness the duty of a magistrate, having been soon placed on the commission of the peace; and there he filled many offices of trust connected with the locality.

In the midst of these prosperous circumstances he was suddenly charged with a crime, which threatened not only to blast the character he had acquired, but to consign him to an ignominious end. In the course of the Home circuit which he travelled he was in the habit of visiting Hertford, where his family interest lay, and of which both his father and his brother were representatives in parliament. Residing with her mother in that town was a young woman named Sarah Stout, the daughter of a respectable Quaker deceased, who had been a firm friend of the Cowpers; and both the brothers and their wives had shown a kind interest in her welfare. At the spring assizes of 1699 Spencer had dined with her on March 13, and after supper had gone home to his lodgings about eleven o'clock. On the next morning she was found in the river, and an inquest was immediately held on the body, at which Spencer Cowper was present and gave his evidence, which resulted in a verdict that the deceased drowned herself, being *non compos mentis*. About a month after this, with no further evidence than was submitted to the coroner's jury, the mother and brother commenced a prosecution, charging not only Spencer Cowper but two attorneys and a scrivener, who had been heard

making some loose remarks at their lodgings about the girl, with first strangling her and then throwing her into the water where she was found. The parties were summoned before Lord Chief Justice Holt, who at first dismissed them; but after two subsequent examinations, was induced on May 19 to commit Mr. Cowper for trial to the King's Bench prison, where he remained till the next assizes. The prisoners were arraigned at Hertford on July 16, and after a long trial were acquitted, as Luttrell remarks, "to the satisfaction of the auditors." Every one who reads the trial must join in this satisfaction, for a more unfounded charge could not be made. The prosecutors did not attempt to show any motive for the commission of the crime; it was plainly proved that the young woman was not strangled at all; and as to the question whether she went into the water alive or was thrown into it when she was dead, there was much conflicting evidence; that affirming the latter supported by the medical men of the place (all opponents of the Cowper interest), aided by some seamen who professed to give their own experience, but clearly contradicted by the most positive testimony of the most eminent physicians, surgeons, and anatomists in London, who came forward to expose the absurd hypothesis of their country brethren. Dr. Garth, when reminded of the seamen's evidence, laughed at it, and said, "The seamen are a superstitious people; they fancy whistling at sea will occasion a tempest;" and Dr. Crell, on being stopped by the judge when he offered to give the opinion of several ancient authors, said, "I do not see any reason why I should not quote the fathers of my profession in this case as well as you gentlemen of the long robe quote Coke upon Lyttelton in others."

Even if the girl was strangled, there was not the slightest evidence to implicate Cowper in the deed, except that he

had supped with her; but on the contrary, it was demonstrably proved that from the short time that elapsed between his leaving her house to the time he arrived at his lodgings, it was impossible that he could have been concerned. Not satisfied with these proofs, evidence was brought forward showing that the girl had lately had fits of melancholy in which she often threatened self-destruction; and it appeared that she had indulged a passion for Mr. Cowper, though a married man, that she had offered to come to his chambers, which he with the assistance of his brother had eluded, and that on the occasion of this very assizes she had invited him to lodge at her house, and written to him saying, "I assure you I know of no inconvenience that can attend your cohabiting with me." Not choosing to be drawn into such an intrigue, he had left her house after supper, and she, it is presumed, driven to frenzy by her disappointment, had gone out and drowned herself. As for the other prisoners, there was not a scintilla of evidence against them connecting them with the transaction, beyond loose words that passed between them jokingly as to the character of the girl. Judge Hatsel presided, and by his querulousness at the trial and the stupidity of his summing up, the prisoners had certainly no cause to thank him for their acquittal.

But Cowper's persecution was not yet over. Whether from a conviction of his guilt and a thirst for revenge, which seems scarcely possible; or from a desire to clear the Society of Friends from the imputation that one of their body could be affected by worldly passions, which no doubt in some measure operated; or from the excitement of party spirit prompting the opponents of the Cowpers to endeavour to destroy the interest of the family in the borough, which is far more likely, as a new election was near at hand; for one or the other of these reasons the question was kept alive, at first by pamphlets, and subsequently by much more unjusti-

fiable means. The law allowed an appeal for murder to be instituted within a year and a day after the death by the next heir of the deceased. Such an heir was immediately found, who was an infant; but instead of at once obtaining the necessary writ, the prosecutors purposely delayed issuing it till three or four days before the expiration of the term; and this they did without the knowledge or consent of the infant heir, the nominal appellant, or of his mother, who were not even made acquainted with the proceeding for a month afterwards. Naturally disgusted at the prosecutors' conduct, they applied for and obtained from the sheriff the writ and return, which they forthwith put into the fire. This the prosecutors endeavoured to remedy by applying to the lord keeper for a new writ, which he, assisted by four learned judges, very properly refused, on the ground that the first writ had been clandestinely and fraudulently procured, that it was absolutely renounced by the pretended plaintiff, and the delay in its issue showed that the prosecutors did not design justice, but to spin out a scandal as long as they could, maliciously and vexatiously. Mr. Cowper during these discussions appeared in court, and declared his readiness to answer. Thus this affair terminated; but the principal object was answered, by the dissolution for the time of the Cowper interest in the town.[1]

Every impartial man acquitted Cowper, whose professional success was only temporarily impeded. He steadily advanced at the bar, and in 1705, when he resigned the office of comptroller, he succeeded his brother as member for Beeralston, which he continued to represent in the two following parliaments. During the last of them he was one of the managers in the impeachment of Dr. Sacheverell, and had to conduct the second article.[2] This prosecution lost him

[1] State Trials, xiii. 1105; Luttrell, iv. 518, 539, 635, 650; Lord Raymond, 555.

[2] Luttrell, vi. 551, 555; State Trials, xv. 152.

his election for the next parliament; and he did not sit again till the accession of George I., when he was returned for Truro. He then became, on October 22, 1714, attorney-general to the Prince of Wales; and in 1717 chief justice of Chester. In 1722, still representing Truro, he moved that the suspension of the habeas corpus act should be limited to six months only instead of a year, but failed in his motion.

On George II. coming to the crown he at once promoted his old servant, raising him first to the attorney-generalship of the Duchy of Lancaster, and then to the bench at Westminster. He was constituted a judge of the Common Pleas on October 24, 1727; but had little opportunity of exhibiting his judicial capacity, death overtaking him in the next year, on December 10, at his chambers in Lincoln's Inn. He was buried at Hertingfordbury, where there is a beautiful monument to his memory by Roubilliac, erected by order of his second wife, Theodora, widow of John Stepney, Esq. By her he had no issue, but by his first wife, Pennington, daughter of John Goodeve, Esq., he left three sons, the second of whom, the Rev. John Cowper, D.D., was the father of the delightful poet, William Cowper.[1]

## DENISON, THOMAS.

Just. K. B. 1742.

*See* under the Reign of George III.

## DENTON, ALEXANDER.

Just. C. P. 1727.

*See* under the Reign of George I.

The manor of Hillesden near Buckingham was granted by Edward IV. to a member of the ancient family of Denton; whose descendant Sir Alexander fell a victim to his loyalty

[1] Lord Raymond, 1318, 1510; Parl. Hist. viii. 38.

in the civil wars. One of his sons, Sir Edmund, was created a baronet in 1699, and represented sometimes the county, and sometimes the town, of Buckingham in several parliaments; and dying in 1714 without issue the title became extinct. Alexander Denton, the future judge, was I believe the baronet's nephew, being the son of another Alexander of Hillesden. When Sir Edmund was returned for the county in 1708 his nephew succeeded him in the town, and was again elected for it in 1714; but he does not seem to have taken an active part in either parliament.

He received his legal education at the Middle Temple from 1698 to 1704, when he was called to the bar. In February of the next year he was committed to the custody of the serjeant-at-arms by the House of Commons for pleading for the plaintiffs in the Aylesbury case, and does not appear to have been released till the parliament was prorogued in the following month. He took so high a rank in his profession that when Sir William Thomson was dismissed from the office of solicitor-general in 1720, the Attorney-General Lechmere recommended him for the place; but he was obliged to give way to Sir Philip Yorke.[1] Though then disappointed he had not long to wait for promotion. On June 25, 1722, he was appointed a judge of the Common Pleas in the room of Sir John Blencowe: and after filling it with respectability for eighteen years he died on March 22, 1740; holding at his death the office also of chancellor to the Prince of Wales.

He married a lady with a fortune of 20,000*l.*, named Bond; but leaving no issue, his property devolved on his nephew, George Chamberlayne, Esq., of Wardington, his successor as M.P. for Buckingham, and a descendant of Sir Thomas Chamberlayne the judge in the time of Charles I.[2]

[1] State Trials, xiv. 809, 817; Cooksey's Lord Somers and Hardwicke, 161.

[2] Noble's Cont. Granger, iii. 197; Wotton's Baronet. ii. 376.

## EYRE, ROBERT.

Ch. C. P. 1727.

*See* under the Reigns of Anne and George I.

Robert Eyre was the son and heir of Sir Samuel Eyre of Newhouse in Wiltshire, and a cousin of Sir Giles Eyre of Brickworth, both judges of the King's Bench in the reign of William III. He was born in 1666, and with such connections he was naturally destined for the profession in which they became eminent. He accordingly entered upon his legal studies at Lincoln's Inn, where they had matriculated, in April 1683, and was admitted to the bar in February 1689.

Before his father's death in 1698 he had succeeded his cousin Sir Giles in the recordership of Salisbury; and he represented that city in the last three parliaments of William III. and the first four of Queen Anne, from 1698 to 1710. He was sworn Queen's counsel in May 1707, and in October of the following year he was made solicitor-general. In the interim he was overturned while going the western circuit and broke his arm. In March 1710 he was one of the active managers of the unwise impeachment of Dr. Sacheverell; and was afterwards engaged in the trials of the parties connected with the Sacheverell riots.[1]

The Whig ministry by which he was appointed fell a sacrifice to this prosecution; but fortunately for him, before their dismissal, the death of Mr. Justice Gould occasioned a vacancy in the court of Queen's Bench, which he was appointed to supply. Having first received the degree of the coif, he was sworn in on March 13 and knighted; and sat in that court during the remainder of Queen Anne's reign. On the arrival of George I. he was appointed chancellor to the Prince of Wales, his patent containing a dispensation for

[1] Luttrell, vi. 166, 202, 263; State Trials, xv. 396, 522–702.

him to give counsel and advice to, and to receive fees, &c. from, his royal highness, *non obstante* his judicial character. As in duty bound, on the great question agitated before the judges in 1718 as to the king's prerogative in regard to the education and marriage of the royal family, Sir Robert gave an opinion differing from the majority of his brethren, in favour of the prince his client. So satisfactory was his performance of his judicial functions, and so high his legal reputation, that, notwithstanding this opposition to the royal claim, the king on November 16, 1723, promoted him to the head of the court of Exchequer as lord chief baron; and eighteen months after, on May 27, 1725, raised him to the still higher dignity of lord chief justice of the Common Pleas.[1] He maintained the reputation he had earned for the ten years that he continued to preside in that court: his whole career on the three benches extending over one-and-twenty years.

Sir Robert, however, did not escape calumny. In 1729 a committee was appointed on the suggestion of Mr. (afterwards General) Oglethorpe to inquire into the state of the gaols of the kingdom. In one of its reports the iniquitous proceedings carried on in the Fleet Prison, and the cruelty and extortion practised by Thomas Bambridge the warden towards the prisoners under his charge, were exposed in full detail; for which he was committed to Newgate by the House of Commons and prosecuted by the attorney-general. Though he narrowly escaped conviction for actual murder, there was ample proof of his brutality and corruption. When the trials were over, some infamous and profligate persons brought a charge against Chief Justice Eyre for visiting this Bambridge in prison, and of otherwise aiding and abetting him in his atrocities. On a strict investigation, however, the committee came to a resolution that it was a

[1] Lord Raymond, 1309, 1331; State Trials, xv. 1217.

wicked conspiracy to vilify and asperse the chief justice, and that the informations against him were "false, malicious, scandalous, and utterly groundless."[1]

That Sir Robert was somewhat haughty in his demeanour may be inferred from the Duke of Wharton's satire. He vows constancy to his mistress until the time

> When Tracy's generous soul shall swell with pride,
> And Eyre his haughtiness shall lay aside.

As a set-off against this there is evidence of the general estimation of his character in the intimacy which existed between him and Godolphin, Marlborough, and Walpole; and of his kind and generous disposition a testimony is afforded by a legacy of 400*l.* bequeathed to his daughter by an old domestic, in grateful acknowledgment that he owed all his good fortune in life to his deceased master. The chief justice died on December 28, 1735, and was buried in St. Thomas's Church, Salisbury. By his wife, Elizabeth, daughter of Edward Rudge, Esq., of Warley Place, Essex, he left a large family, to the representative of one of which I am indebted for several of the particulars mentioned in this memoir.[2]

## FORTESCUE, LORD. *See* J. FORTESCUE-ALAND.

## FORTESCUE, WILLIAM.

B. E. 1736. JUST. C. P. 1738. M. R. 1741.

WILLIAM FORTESCUE was lineally descended from the celebrated judge Sir John Fortescue through a grandson named William. His father was Hugh Fortescue of Buckland-Filleigh, and his mother was Agnes, daughter of Nicholas Dennis, Esq., of Barnstaple. He was admitted to the Middle Temple in September 1710, but removing to the

[1] Parl. Hist. viii. 707 *et seq.*; State Trials, xvii. 619–626.

[2] Sir R. C. Hoare's South Wilts.; Frustfield; Gent. Mag. lxix. 463.

Inner Temple in November 1714, he was called to the bar by the latter society in July 1715.

Sir Robert Walpole, when chancellor of the Exchequer, made him his secretary; and he was returned to parliament as member for Newport in Hampshire at the beginning of the reign of George II. Though he sat for that borough till 1736, his speeches are nowhere recorded. He became attorney-general to the Prince of Wales, and king's counsel in 1730; and on the removal of Sir John Comyns from the court of Exchequer to that of the Common Pleas, he was made a baron of the former on February 9, 1736. On July 7, 1738, he succeeded the same judge in the Common Pleas, when he was elevated to the post of chief baron; and after nearly six years' experience on both these benches he received the appointment of master of the rolls on November 5, 1741; and sat there till his death on December 15, 1749, when he was buried in the Rolls Chapel.

Though considered a good lawyer, he is better known for his intimacy with the wits and literary men of the time. The friendship that existed between him and Pope appears in their correspondence, and he is reputed to have furnished the poet with the famous case of Stradling *versus* Stiles in Scriblerus's Reports. His mother after his father's death married Dr. Gilbert Budgell, who by his first wife was the father of the unfortunate poet Eustace Budgell. Mr. Fortescue married Mary, the daughter and co-heir of Edmund Fortescue, Esq., of Fallapit, and left an only daughter, who after marrying John Spooner, Esq., died without issue.[1]

## FOSTER, MICHAEL.

JUST. K. B. 1745.

*See* under the Reign of George III.

[1] Collins' Peerage, v. 342; Burke's Landed Gentry, 432; Parl. Hist. viii. 619; Pat. 15 Geo. II. p. 6, n. 22; Noble's Granger, iii. 296.

## GUNDRY, NATHANIEL.

Just. C. P. 1750.

Nathaniel Gundry was of a Dorsetshire family. He was born at Lyme Regis, and entered the Middle Temple as a member in 1720, but after being called to the bar in 1725, removed to Lincoln's Inn; and was made a king's counsel in July 1742. He represented Dorchester in his native county from 1741 till his elevation to the bench. That he was considered stiff and pretentious by his brethren may be presumed from the following character given of him in the Causidicade, as a supposed candidate for the office of solicitor-general vacant in 1742 by the resignation of Sir John Strange:—

> "In the front of the crowd then appear'd Mr. G—nd—y,
> "To this office," quo' he, "my pretensions are sundry;
> Imprimis my merit, e'en great as t' attract
> His M—j—y's notice, so nice and exact,
> As lately to call me inside of the bar,
> From among the rear-guard—poor souls, how they stare!
> Which is plain that he meant me some further preferment,
> More worthy my learning, parts, and discernment.
> More claims I might urge, but this I insist on
> Is sufficient to merit the office in question."
> Then the president thus, "You're too full of surmises;
> The man who is stiff, like an oak, seldom rises,
> As witness T—m B—tle; but he who can bend
> Like a reed, or T—m P— —r, ne'er wants a good friend.
> To rise you must fall, 'tis the way thro' the doors
> Now-a-days to preferment, to creep on all-fours."

He waited eight years for his advancement; when on the death of Sir Thomas Abney, in May 1750, he was appointed a judge of the Common Pleas. He enjoyed the post less than four years, dying on the circuit at Launceston on March 23, 1754. He was buried at Musbury in Devonshire. His widow survived him above thirty-seven years.

[1] Hutchins' Dorset, i. 249, 379; Gent. Mag. xxiv. 191, lxi. 1159.

## HALE, BERNARD.

B. E. 1727.

*See* under the Reign of George I.

THE estate of King's Walden in Hertfordshire, where this judge was born, had been in the possession of the family since the time of Queen Elizabeth. Several of his ancestors had been sheriffs of the county, and his father, William Hale, was its representative in parliament in 1661 and 1678. His mother was Mary, daughter of Jeremiah Elwes, Esq., of Roxby in Lincolnshire; and the judge was their eighth son. He was born in 1677, and adopting the usual course of education for the legal profession, he entered the society of Gray's Inn in October 1696, and took his degree of barrister in February 1704. He gained so considerable a reputation as an able lawyer, that on June 28, 1722, he was selected to succeed Sir Geoffrey Gilbert as lord chief baron of the Irish Exchequer, where he remained for nearly three years. From this position he was removed on June 1, 1725, to the English court of Exchequer as one of the puisne barons, again succeeding Sir Geoffrey Gilbert, when he was knighted. He sat there little more than four years; and died on November 7, 1729, at Abbots Langley, in the church of which his remains are interred.

He married Anne, daughter of J. Thoresby, Esq., of Northamptonshire, and left a large family, several of whom distinguished themselves in the army. The estate of King's Walden eventually devolved on his eldest son, whose descendant still enjoys it.[1]

[1] Smyth's Law Off. Ireland, 143. For information about this family I am indebted to my active friend, William Durrant Cooper, Esq., F.S.A., whose services throughout this work I have had repeatedly to acknowledge.

## HARDWICKE, EARL OF. *See* P. YORKE.

## HENLEY, ROBERT, LORD HENLEY.

LORD KEEPER, 1757.

*See* under the Reign of George III.

## JEKYLL, JOSEPH.

M. R. 1727.

*See* under the Reign of George I.

AFTER the death of Sir John Trevor in 1717 the office of master of the rolls was held for one-and-twenty years by Sir Joseph Jekyll, whom Pope describes as an

> Odd old Whig,
> Who never changed his principles or wig.

He was the fourth son of the Rev. Dr. Jekyll, a beneficed clergyman in Northamptonshire, and was born about the year 1663. Having one brother who was brought up to the clerical profession, he chose that of the law; and becoming a member of the Middle Temple in 1680, he was called to the bar in 1687. Ten years afterwards he was promoted to the bench of that society, and was autumn reader in 1699. While yet a student he was present in the Rolls Chapel in 1684 when Gilbert Burnet (afterwards Bishop) preached that sermon on the 5th of November against Popery, which occasioned his being silenced by the court. When Burnet had preached out the hour-glass, he took it up and held it aloft in his hand and turned it up for another hour; upon which, Jekyll says, the audience set up almost a shout of joy.[1]

The talent which the youthful barrister exhibited, added to the identity of political feeling, gained him the honour of

[1] Burnet, ii. 439; Speaker Onslow's Notes.

an intimacy with Lord Chancellor Somers, which led to his marriage with that nobleman's sister Elizabeth, a lady several years his senior. This connection was no doubt the origin of his early and progressive advance; procuring him in the first place the post of chief justice of Chester in June 1697, followed soon after by the honour of knighthood, when his noble brother-in-law was in the height of his power. He was further promoted to the degree of the coif in 1700, and immediately made king's serjeant. From his Welsh judgeship the Tory party on the accession of Queen Anne endeavoured to remove him; but on his withstanding the attempt, and insisting that his patent appointed him for life, the government did not think proper to try the question, but submitted to his continuing in the office, which he held till he changed it for the more honourable and lucrative post of master of the rolls.[1]

This decision was probably influenced in some measure by his position in parliament, of which he had been an active member from 1698, representing the borough of Eye; for which he was returned up to the year 1714, when he was elected for Lymington till 1722, and then for the remainder of his life for Reigate (the grant of the manor of which was one of the articles of charge against Lord Somers); so that his senatorial career extended over forty years. During that long period he steadily adhered to his party, and in the prosecution of its objects introduced and supported several useful measures. When Queen Anne in the session of 1704 proposed by a royal message to grant the first fruits and tenths for the augmentation of the livings of the poorer clergy, Sir Joseph moved that the clergy might be wholly relieved from the tax, and that another fund might be raised to augment the small benefices. The act however was passed carrying out the queen's suggestion; and a corporation

[1] Luttrell, iv. 238, 319, 702, 704; Burnet, v. 12; Onslow's Note.

thereupon formed for administering what is properly designated as Queen Anne's Bounty.[1] In the debate on the famous Aylesbury case in the same year he ably maintained the right of injured electors to seek redress at law; and at the end of that year he risked the censure of the house, by pleading in behalf of Lord Halifax. In the absurd impeachment of Dr. Sacheverell in 1710 he distinguished himself by his opening of the first article; and was so sore on the impotent result, that he caused an indictment to be preferred against a clergyman in Wales, who in a sermon before him arraigned the proceedings and reflected on the managers. The grand jury, however, very sensibly threw out the bill.[2]

On the accession of George I., when the Whigs regained power, Sir Joseph was chosen of the committee of secrecy to inquire into the conduct of the late ministry, and on their report being printed he stated, in opposition to it, that though there was sufficient evidence to convict Lord Bolingbroke of high treason, there was not sufficient to implicate the Earl of Oxford in such a charge. The earl notwithstanding was committed to the Tower in July 1715, and remained a prisoner for two years without trial. So late as June 1717 Sir Joseph reiterated his objections, yet in less than a fortnight after he appeared as a manager, prepared to make good the first article of the impeachment. In the farce with which that trial terminated it looks as if Sir Joseph was induced to take a part in opposition to his openly avowed opinion, by the hope, and perhaps by the promise, of succeeding Sir John Trevor, who was lately dead, in the office of master of the Rolls; to which he was appointed in less than three weeks, on July 13. Indeed he had amply deserved this advance, not only for the constant support he gave to his party, but for his zealous assistance in the pro-

[1] Burnet, v. 120; St. 2 and 3 Anne, c. 11.

[2] Parl. Hist. vi. 271; Luttrell, v. 488, vi. 563; State Trials, xv. 95.

secution of those concerned in the rebellion of 1715, in conducting the impeachment of the Earl of Wintoun, and the indictment against Francis Francia.[1]

In addition to the judicial duties which now devolved upon him, he devoted himself to affairs of state, and took a prominent lead in the debates of the house. He energetically exposed the South Sea Bubble, and led the van of those who sought to punish the peculators. His age, his position, and the apparent impartiality with which he discussed the various questions that arose, gave his opinions much weight and influence; and though a frequent speaker he was always listened to with deference and respect. But with the people he risked his popularity by introducing a bill for increasing the tax on spirituous liquors and for licensing the retailers. This produced great disorders among the lower classes, who were thus deprived of their customary enjoyment; and Sir Joseph was obliged to have a guard at his house at the Rolls to resist their violence. As it was, he was hustled and knocked down in Lincoln's Inn Fields, then an open space and the common resort of the mob. Arising from this misadventure, which was nearly fatal to him, a great improvement was luckily effected, for, in order to prevent the recurrence of similar accidents, palisades were erected around the fields and a pleasant garden laid out. Another useful measure which he originated was the Mortmain Act of 1736, by which the indiscriminate disposition of lands to charitable uses was restrained.[2]

His presidency at the Rolls was distinguished by legal ability, integrity, and despatch. On the retirement of the Earl of Macclesfield in 1725 the Great Seal was put into the hands of three commissioners, of whom Sir Joseph was the principal; and they held it from January 7 to June 1,

[1] Parl. Hist. vii. 67, 73, 478, 485; State Trials, xv. 830, 904.

[2] Lord Hervey's Mem. ii. 88, 139; Lord Macaulay's Hist. i. 359.

when Lord King was appointed lord chancellor. The work on "The Judicial Authority of the Master of the Rolls," published in 1727, and occasioned by a controversy with Lord Chancellor King, who maintained that that officer was only the first of the masters in Chancery, has been usually attributed to Sir Joseph; but, though he no doubt supplied some of the materials, it was really written by his nephew Sir Philip Yorke, at that time attorney-general; with whom he always lived on terms of the greatest intimacy, and to whom he left part of his estates.[1]

He died of a mortification in the bowels on August 19, 1738, and was buried in the Rolls chapel. His lady survived him; but leaving no issue, he bequeathed 20,000*l.*, part of his large fortune, after her death to the sinking fund towards paying off the national debt; a bequest which Lord Mansfield said was a very foolish one, and that he might as well have attempted to stop the middle arch of Blackfriars Bridge with his full-bottomed wig. In consequence however of his munificent expenditure in the erection of the large and convenient mansion at the Rolls for himself and his successors, and the contiguous buildings in Chancery Lane, and of his being disappointed in having a long lease of them, the government, to make good the loss, restored the money to his relations. Lord Hervey in his memoirs, though giving him a very prejudiced character, is obliged to allow that he was impracticable to the court, learned in his profession, and had "more general weight in the House of Commons than any other single man in that assembly."[2]

[1] Harris's Lord Hardwicke, i. 198, 416.

[2] Gent. Mag. lxiii. 386; Legal Observer, ii. 96; Lord Hervey, i. 473.

## KING, PETER, LORD KING.

LORD CHANC. 1727.

*See* under the Reign of George I.

THE career of this eminent judge affords another striking instance of how genius and industry may overcome the most unpromising beginnings, and, when united with modesty and good conduct, may raise the possessor from a subordinate position to the highest dignity in the state. Peter King's father, Jerome King, was a thriving and respectable grocer and salter in Exeter, and he himself was compelled reluctantly to pursue the same business for some years. His mother was Anne, daughter of Peter Locke of a Somersetshire family, and first cousin of the great philosopher John Locke.[1] Peter King was born in 1669, and after receiving the ordinary education at the grammar school of his native city, he had no other apparent prospect than was opened to him by his father's trade. Though faithfully and diligently discharging the duties of this unattractive avocation, his mind, which was serious and contemplative, sought more congenial employment; and instead of occupying his leisure hours in the usual amusements of youth, he devoted them to literary pursuits. Encouraged by his celebrated relative, who saw with surprise and pleasure the progress in learning of one who could command so few opportunities for study, he published anonymously in 1691 a work suggested to him by the discussions in parliament on the scheme of Comprehension, which about that time agitated the religious world.

This was entitled an "Enquiry into the Constitution, Discipline, Unity, and Worship of the Primitive Church that flourished within the first 300 years after Christ: faithfully collected out of the extant writings of those ages." He

[1] Collins' Peerage, vii. 223; Notes and Queries, First Series, xi. 327; Second Series, i. 141.

soon afterwards produced a second part; leading to a correspondence between him and Mr. Ellis, which was published by the latter. In 1702 he issued another theological work, called "The History of the Apostles' Creed," which greatly increased his reputation. Bred up among Dissenters, King had in his first work naturally advocated the claims of the Presbyterians; but when Mr. Sclater's book called "Original Draught of the Primitive Church" appeared, so late as 1717, he is said to have acknowledged that his principal arguments had been satisfactorily confuted. However this may have been, his early work attracted the notice of the learned world, and it displayed such an extent of reading and research, that his relative induced his father to release him from his commercial engagements, and, by sending him to complete his education at the University of Leyden, prepare him for a position more suitable to his talents. He resided at Leyden for three years, and having selected the law as his profession, returned in 1694 and applied himself diligently to its study at the Middle Temple, of which he was admitted a member in October of that year. His legal pupillage was greatly curtailed, for before four years had expired he was called to the bar on June 8, 1698, the entry adding, "upon the recommendation of Lord Chief Justice Treby." To this learned judge and to his other Whig connections King probably owed his early introduction into practice, in which he was soon successfully and extensively established, both in Westminster Hall and on the Western circuit. By the same interest he was almost immediately provided with a seat in the senate, being, in both the parliaments of February and December 1701, elected for Beeralston, a close borough, the patron of which invariably returned Whig representatives. He sat for the same constituency till he ascended the bench, having for his colleagues successively William Cowper, the future chancellor, and Spencer Cowper and

Lawrence Carter, both future judges, and all professed Whigs. During the whole of this time, although we know from his correspondence with Locke that he was an active partisan and an occasional speaker, the records of parliamentary oratory are so scanty that his name very seldom appears. The first occasion on which he is noticed is in January 1704, when he delivered an able and effective argument in support of the right of electors to appeal to the common law for redress against the returning officers of Aylesbury for refusing to receive their votes.[1] This year was an eventful one to him, being marked by his marriage in September with Anne, daughter of Richard Seyes, Esq., of Boverton in Glamorganshire, and by the death in the next month of his cousin John Locke, who had been his affectionate guide and adviser, and who proved his confidence and love by making him his executor and leaving him his MSS., and a great part of his property.

In 1705 he received his first promotion, that of recorder of Glastonbury; which was succeeded by his election on July 27, 1708, to the recordership of London, and his knighthood in the following September. At this time his reputation was so high that he was designed for speaker of the new parliament; but his claims were withdrawn in favour of Sir Richard Onslow.[2] He was one of the managers for the commons in the impeachment of Dr. Sacheverell in 1700, and opened the second article in a most elaborate speech; replying also to the doctor's defence in one as able and as long. In these orations he displayed all his theological learning; but he could not effectively support a prosecution like this, which itself in some measure contravened the principles of that toleration which he had advocated. This however was a party affair, in which he probably was compelled to assist; but he soon after showed his adherence to

[1] Parl. Hist. vi. 264. [2] Letters, &c., William III. 366.

his old opinions by his energetic defence of Whiston and of Fleetwood, bishop of St. Asaph.[1]

When George I. came to the throne the Whigs regained their power, and Sir Peter was at once promoted. From the Whig leader in the House of Commons and the acknowledged head of the bar, though undignified with office, he was raised on November 14, 1714, by the recommendation of his old parliamentary colleague Lord Cowper, to the post of chief justice of the Common Pleas, in the place of Lord Trevor who was then superseded. On his consequent resignation of the recordership, the corporation of London voted him a piece of plate "as a loving remembrance of his many good services done to the city."[2] He sat in the Common Pleas for more than ten years with the approbation of lawyers for his learning, and of suitors for his impartiality. Though he presided on the trials of the persons implicated in the rebellion of 1715, they are not recorded; but Lord Campbell gives some extracts from his report to the government, which show a humane desire to save the lives of those of the condemned prisoners who were deserving of mercy. The State Trials report only two criminal trials before him at a later period; and in both of them his summing up of the evidence and his statement of the law are most careful, clear, and distinct; and though his construction of the Coventry Act in that of Woodburn and Cope did not meet with universal acquiescence, it was agreed on all sides that the prisoners were most deservedly condemned.[3]

On the resignation of Lord Chancellor Macclesfield in January 1725, Sir Peter King was appointed speaker of the House of Lords; in which character he presided at the trial of that nobleman, and pronounced sentence against him on

[1] State Trials, xv. 134, 418, 703; Parl. Hist. vi. 1155.
[2] Lord Campbell's Chancellors, iv. 349; City List of Recorders.
[3] Lord Campbell, iv. 595; State Trials, xv. 1386, xvi. 74.

the 27th of the following May. Five days after, on June 1, the Great Seal was placed with universal approbation in his hands as lord chancellor, he having three days before been raised to the peerage by the title of Baron King of Ockham in Surrey. His pension of 6000*l.* was increased by 1200*l.*, avowedly to compensate for the loss of the sale of certain offices in the Court of Chancery; thus in effect acknowledging that to have been theretofore a recognised privilege, for the exercise of which Lord Macclesfield had been punished. He had held the Seal for two years when George I. died; yet, though he had given his opinion on the subject of the marriage and education of the royal family in favour of that king's prerogative, and against the claim of the Prince of Wales, the latter when he came to the crown was so convinced of his unbiassed integrity that he was continued in his high trust for the first six years of the reign.

His earliest labours were devoted to the construction of a plan by which the frauds and misapplications of the suitors' money, as lately exposed, might be for the future prevented; and this was satisfactorily effected by the appointment of a new officer called the accountant-general, in whose name all the funds brought into court were immediately placed, to be dispensed under strict regulations to those found to be entitled to them. In the daily exercise of his judicial functions, though he exhibited the same learning, care, and impartiality, he did not sustain the same reputation he had won by his presidency of the Common Pleas. He had not had any experience in equity practice, and consequently was diffident, irresolute, and dilatory. So many of his decrees were appealed against, and so many of his decisions were reversed or controverted, that the admiration which he had earned as a judge cannot be extended to him as a chancellor. Lord Hervey relates that the queen once said of him, that "he was just in the law, what he had been in the gospel—

making creeds upon the one without any steady belief, and judgments in the other without any settled opinion." [1]

During the latter part of his career his health failed, and he became so lethargic "that he often dozed over his causes when on the bench;" a circumstance which, according to Jeremy Bentham (an eye-witness), "was no prejudice to the suitors," owing to the good understanding between Sir Philip Yorke and Mr. Talbot, who, though opposed to each other as counsel, arranged the minutes of the decrees between them "so as that strict justice might be done." [2] No wonder then that this mode of settling their claims was unsatisfactory to the litigants. Lord King's infirmities increased so much that on November 29, 1733, he felt himself compelled to resign the Seal, after having held it for nearly nine years.

From this time he gradually sank till the close of his life. He died on July 29, 1734, and was buried at Ockham, where a handsome monument bears record of his many excellencies.

From the liberal principles in which he was educated he never swerved during the whole of his career, though Whiston, when disappointed in one of his applications, charges him with being corrupted by his elevation. Against his private character no word has ever been whispered, and the general estimation in which it was regarded may in some measure be judged from the following lines, paraphrasing the motto he had chosen for his arms.—*Labor ipse voluptas*:—

'Tis not the splendour of the place,
The gilded coach, the purse, the mace,
Nor all the pompous train of state,
The crowd that at your levee wait,
That make you happy, make you great:
But while mankind you strive to bless
With all the talents you possess;

[1] Lord Hervey's Memoirs, i. 281.

[2] Cooksey, 60.

While the chief pleasure you receive,
Comes from the pleasure that you give;
This takes the heart and conquers spite,
And makes the heavy burden light,
For *pleasure*, rightly understood,
Is only *labour to be good.*

A punning epitaph in Ockham Churchyard on a carpenter named Spong has been attributed to Lord King, but he has been acquitted of the imputation by the claim of another.

He left four sons, each of whom successively enjoyed the title. The great grandson of the fourth brother was created by Queen Victoria in 1838, Earl of Lovelace, and is now Lord Lieutenant of Surrey.[1]

## KYNASTON, WILLIAM.

(?) CURS. B. E. 1740.

WILLIAM KYNASTON was a member of the family of that name long established at Ruyton-of-the-eleven-towns, in Shropshire. He purchased in 1721 the office of master in Chancery from Mr. William Rogers, to whom, according to the vicious practice of the period, he paid 6000*l.* for the place, besides 1500 guineas to Lord Chancellor Macclesfield for his admission. When the investigation took place in 1725-6 into the malpractices of the court, among the deficiencies in the accounts of several of the masters, that of Mr. Kynaston was found to be above 26,000*l.* He suffered imprisonment in the Fleet for his debt, and was exposed in two acts of parliament, St. 12 Geo. I. c. 32 and 33. Afterwards making good his deficiency from his private estate, he was not excluded from his office, in which he still continued till his death. The "Gentleman's Magazine" announces his appointment as cursitor baron of the Exchequer, in the room of George Clive deceased, in February 1740; but as

[1] Lives by Mr. Welsby and Lord Campbell.

there is no patent nor other proof of his holding that office, and as Edward Barker had the grant of it in January 1744, it is probable that he only performed the duties temporarily during the vacancy. In 1733 he was elected recorder of Shrewsbury, and represented that borough in the parliaments of 1735, 1741, and 1747. He died in 1759, and was buried in the family vault at Ruyton.[1]

## LEE, WILLIAM.

Just. K. B. 1730. Ch. K. B. 1737.

One of the branches of the family of Lee settled in Buckinghamshire in the reign of Henry IV., and through a marriage acquired the estate of Hartwell in that county at the beginning of the seventeenth century. King Charles II. at his restoration conferred a baronetcy on its possessor; but the title, after being enjoyed for a hundred and sixty-seven years, became extinct on the death of the sixth baronet in 1827. The chief justice was the second son of Sir Thomas, the second baronet, and of his wife Alice, daughter and heir of Thomas Hopkins, a merchant of London.[2] He was born in 1688, and was educated at the University of Oxford, where he took his bachelor's degree. The law being selected as his profession, he was entered in July 1703 at the Middle Temple, whence he removed in February 1717 to the Inner Temple, from which in due course he proceeded as barrister.

His classical attainments may be inferred from his being appointed Latin secretary to the king in 1718;[3] and his forensic talents from his success at the bar and his being made one of the king's counsel, an office in those times of far greater distinction than it holds at the present day, when

[1] Gent. Mag. x. 93; State Trials, xvi. 858, 907; Parl. Hist. xiv. 76.
[2] Wotton's Baronet. iii. 149; Burke's Ext. Baronet. 305.
[3] 6 Report Pub. Records, App. ii. p. 119.

the multiplicity of courts requires an almost infinite number of silken leaders. In the first parliament of George II., which met in January 1728, he was elected member for Chipping Wycombe, and between its third and fourth sessions he was raised to the bench. One of the last recorded appearances of Mr. Lee as a barrister was as leading counsel for Mrs. Castell in an appeal for the murder of her husband by Bambridge, the warden of the Fleet Prison, the result of which, as was commonly the case, was a confirmation of the former acquittal. This proceeding was not often resorted to even in those times, and is now entirely abolished, as prompted more by feelings of revenge than by the love of justice.

On the promotion of Judge Reynolds to be chief baron, Mr. Lee was selected to supply his place in the King's Bench in June 1730. During the seven years that he sat in that court as a puisne judge he refused the customary honour of knighthood; but on his elevation to the head of it on June 8, 1737, in the place of Lord Hardwicke (with whom he lived on terms of the greatest intimacy), he was induced to accept the honorary distinction. He presided as lord chief justice of the King's Bench for seventeen years; and though succeeding so eminent a judge as Lord Hardwicke, his impartial administration of justice and his perfect mastery of the science of law secured to him the respect and admiration of his contemporaries. It fell to his lot to try the persons implicated in the rebellion of 1745; and he performed the obnoxious duty with dignity and firmness. In March 1754, shortly before his death, the office of chancellor of the Exchequer having become vacant by the sudden death of Mr. Pelham, the seals were placed in his hands as chief justice of England till the office should be filled up. This was done in compliance with a custom which had been acted on from time immemorial, and originated in the fact that the

chief justiciary in former ages was the president of the Exchequer. Chief justice Lee died on April 8, 1754, and was buried at Hartwell, under a monument erected to his memory.[1]

Lord Campbell, though with an ineffectual attempt to place his character in a ridiculous light, is obliged to speak highly of his legal and intellectual powers, and to acknowledge the purity of his intentions, the suavity of his manners, and the justice of his decisions. In the obituary account of him in the "Gentleman's Magazine" some deductions must perhaps be made from the terms of eulogy there used:[2] but the fullest confidence may be placed in the description of him, fourteen years after his death, by one who had sat under him during the whole period of his career. Sir James Burrow in his Settlement Cases (p. 328) thus expresses himself: "He was a gentleman of most unblemished and irreproachable character, both in public and in private life; amiable and gentle in his disposition; affable and courteous in his deportment; cheerful in his temper, though grave in his aspect; generous and polite in his manner of living; sincere and deservedly happy in his friendships and family connections; and to the highest degree upright and impartial in his distribution of justice. He had been a judge of the court of King's Bench for nearly twenty-four years, and for near seventeen had presided in it. In this state the integrity of his heart and the caution of his determination were so eminent that they never will, perhaps never can, be excelled."

While Sir William was at the head of the highest common law court, his brother, Sir George, became the president of the highest court of civil law, being appointed dean of the Arches and judge of the Prerogative Court of Canterbury; a coincidence of which we have witnessed another example

[1] State Trials, xvii. 401; xviii. 329; Burrow's S. C. 105, 364.

[2] Lord Campbell's Ch. Just. ii. 213; Gent. Mag xlix. 483.

in Lord Eldon and his brother Sir William Scott, Lord Stowell.

Sir William Lee married, first, Anne daughter of John Goodwin of Burley in Suffolk; and secondly, Margaret daughter of Roger Drake, Esq. and widow of James Melmoth, Esq. By his first wife only he had issue.

## LEGGE, HENEAGE.

B. E. 1747.

THE HON. HENEAGE LEGGE was the second son of William, first Earl of Dartmouth, by Lady Anne Finch, third daughter of Heneage, first Earl of Aylesford; and great grandson, through his mother, of the celebrated lord chancellor of Charles II., the Earl of Nottingham. He was born in 1704, and prepared himself for the profession of his maternal family at the Inner Temple, into which he was admitted a student in 1723, and assumed the grade of a barrister in 1728. He was chosen high steward of the city of Lichfield in 1734; and in 1739 became one of the king's counsel, when he was raised to the bench of his inn. In 1743 he was appointed counsel to the admiralty and auditor of Greenwich Hospital; and in the same year was engaged to defend William Chetwynd, indicted for the murder of his schoolfellow Thomas Ricketts by stabbing him with a knife for taking away a piece of cake. The jury found a special verdict, but the question whether it was murder or manslaughter was never decided, the king granting a free pardon, and the vindictive efforts of the deceased's friends to sue out an appeal not being successful.

In June 1747 Mr. Legge was raised to the bench as a baron of the Exchequer in the place of Sir James Reynolds, and sat there for twelve years, respected as well for his learning as for his impartiality and moderation. The latter

qualities were manifested in his able summing up on the trial in 1752 of Mary Blandy for the murder of her father.

He died on August 30, 1759, leaving issue by his wife Catherine, daughter and co-heir of Mr. Jonathan Fogg, a merchant of London, who survived him but two months.[1]

## LLOYD, RICHARD.

B. E. 1759.

*See* under the Reign of George III.

## MANSFIELD, Earl of. *See* W. Murray.

## MURRAY, WILLIAM, Earl of Mansfield.

Ch. K. B. 1756.

*See* under the Reign of George III.

## NOEL, WILLIAM.

Just. C. P. 1757.

*See* under the Reign of George III.

## PAGE, FRANCIS.

Just. C. P. 1727. Just. K. B. 1727.

*See* under the Reign of George I.

This unpopular judge was the son of the Rev. Nicholas Page, the vicar of Bloxham in Oxfordshire, and was born about 1661. Admitted at the Inner Temple in June 1685, he was called to the bar in the same month in 1690, and was raised to the bench of that society in May 1717. He varied his legal studies by entering into the political controversies of the time, taking the Whig view of the subjects in discussion, and adding some pamphlets to those which then almost daily issued from the press. In 1705 he appeared as one of the

[1] Collins' Peerage, iv. 121; State Trials, xviii. 290, 1170.

counsel for the electors of Aylesbury who had been committed by the House of Commons for proceeding at law against the returning officers who had illegally refused their votes. The commons having then resolved that the counsel had thereby been guilty of a breach of privilege, ordered their committal to the custody of the serjeant-at-arms. Page evaded the arrest; and Queen Anne was obliged to dissolve the parliament in order to prevent a collision between the two houses on the question.

Though he was member for Huntingdon in the two parliaments of 1708 and 1710, his name does not once appear in the debates of either. Soon after the accession of George I. he received the honour of knighthood, and was not only made a serjeant, but also king's serjeant, on January 28 1715. An early opportunity was taken of promoting him to the bench, and on May 15, 1718, he took his seat as a baron of the Exchequer. He purchased an estate and built a mansion at Steeple Aston in Oxfordshire, not many miles from Banbury, with the elections of which borough he interfered so much that he was charged in the House of Commons, in February 1722, with corrupting the corporation by bribery; and the evidence was so nearly balanced, that he was only acquitted by a close majority of four votes. On November 4, 1726, he was removed from the Exchequer to the Common Pleas; and in the middle of September 1727, three months after the accession of George II., he was again translated to the King's Bench in the room of Sir John Fortescue-Aland, who was superseded. Though then sixty-six years of age he remained on the bench fourteen years more, dying at the age of eighty on October 31, 1741. He was buried at Steeple Aston under a monumental pile with full-length figures of himself and his second wife by the eminent sculptor Scheemacker. This he caused to be erected during his life, and in order to its construction he destroyed the ancient monuments in the church.

Sir Francis Page has left behind him a most unenviable reputation. Without the abilities of Judge Jeffreys, he was deemed as cruel and as coarse. The few reported cases in the State Trials at which he presided do not indeed appear to warrant this character, nor does his learned judgment in Ratcliffe's case, reported in 1 Strange, 269; but he could not have been known among his contemporaries by the sobriquet of the "hanging judge," nor have obtained the inglorious distinction of being stigmatised by some of the best writers of the age, unless there had been pregnant grounds for the imputation. Pope in his Imitation of the First Satire of the Second Book of Horace thus introduces him:—

> "Slander or poison dread from Delia's rage,
> Hard words or hanging, if your judge be Page."

Long before Page's death Pope had gibbeted him in the "Dunciad" (book iv. lines 26–30):—

> "Morality, by her false guardians drawn,
> Chicane in furs, and Casuistry in lawn,
> Gasps, as they straighten at each end the cord,
> And dies, when Dullness gives her [Page] the word;"—

leaving blank the name in the last line. If it were not vouched by Dr. Johnson in his Life of Pope, it would be scarcely credible that the conscious judge had the folly to fit the cap on himself, and to send a complaint to the poet by his clerk, who told the poet that the judge said that no other word would make sense of the passage. The name is now inserted at full length.

Dr. Johnson also enlarges in his Life of Savage on the vulgar and exasperating language by which Judge Page obtained the conviction of the unfortunate poet for the murder of Mr. Sinclair. No wonder that Savage, after he was pardoned, revenged himself by penning a most bitter "character" of the judge; who escapes no better under Fielding's

lash. In "Tom Jones" (book viii. c. xi.), Partridge is made to tell a story of a trial before the judge of a horse-stealer, who, when in his defence he said that he had found the horse, was insultingly answered, "Ay! thou art a lucky fellow; I have travelled the circuit these forty years, and never found a horse in my life: but, I'll tell thee what, friend, thou wast more lucky than thou didst know of; for thou didst not only find a horse, but a halter too, I promise thee." Partridge adds, "Nay, and twenty other jests he made." When Crowle the punning barrister was on the circuit with Page, on some one asking him if the judge was *just behind*, he replied, "I don't know, but I am sure he never was *just before*."

When old and decrepit, the judge perpetrated an unconscious joke on himself. As he was coming out of court one day shuffling along, an acquaintance inquired after his health. "My dear sir," he answered, "you see I keep *hanging on, hanging on*." Among other stories Noble gives an example of his tautology and the meanness of his language, from a charge to a grand jury; in which he used the words "in that kind" no less than nine times in a passage not occupying more than six lines.

He was very desirous of founding a family, but though he was twice married he left no issue. The name of his first wife, who was buried at Bloxham, has not been preserved; that of his second was Frances, daughter of Sir Thomas Wheate, of Glympton, Bart. He left his estates to Francis Bourne (afterwards M.P. for the University of Oxford) on condition that he took the name of Francis Page only; but his object of perpetuating his name was frustrated by his devisee dying unmarried, and his property passing away to strangers.[1]

[1] Noble's Cont. of Granger, iii. 203; Notes and Queries, 3rd Series, i. 153.

## PARKER, THOMAS.

B. E. 1738. Just. C. P. 1740. Ch. B. E. 1742.

*See* under the Reign of George III.

## PENGELLY, THOMAS.

Ch. B. E. 1727.

*See* under the Reign of George I.

Mystery involves the birth of Sir Thomas Pengelly. Genealogy gives him no place in a pedigree; but tradition tells that he owes his origin to an illicit amour of the fallen protector, Richard Cromwell. This story seems principally to be founded on the fact that Pengelly showed uncommon zeal in a suit between Richard and his daughters; and that the protector died in Pengelly's house at Cheshunt. That Richard's will bequeathed only "10*l.* for mourning" to his "good friend Mrs. Pengelly," and does not name her son, which is suggested in contradiction, affords no solution either way; for even if the fact were true, few testators would desire to give evidence against themselves. That this parentage was credited in his own times appears probable from the sly answer given by a witness to his question, how long a certain way through Windsor Park had been so used;—"As far back as the time of Richard Cromwell." The register states his birth to have taken place in Moorfields on May 16, 1675, and records him as the son of Thomas Pengelly, who in the son's admission to the Inner Temple is described of Finchley, Middlesex; but who this father was is nowhere explained. The name is not of frequent occurrence, but a Francis Pengelly was M.P. for Saltash in Cornwall in 1695.

Of Pengelly's early years nothing is told, except that he entered the Inner Temple in December 1692, and was called to the bar in November 1700. His success in the courts

may be presumed from his being the only man selected to be dignified with the coif, in conjunction with Sir Robert Eyre on his being made a judge in 1710. He was elected member for Cockermouth in both the parliaments of George I., in the latter of which, as one of the managers on the impeachment of the Earl of Macclesfield, he undertook the duty of replying to that nobleman's defence. In a long and laboured harangue he with great ability and force answered all the legal points raised by the earl, and with more harshness than was requisite aggravated the offences with which he was charged. He is said to have felt a personal enmity to the earl, and to have been specially indignant at the preference shown in court to the arguments of Sir Philip Yorke. At this time he was the king's prime serjeant, to which he had been appointed on June 24, 1719, having been knighted in the previous month; and in this character he, with the other law officers of the crown, had the conduct of the indictment of Christopher Layer for high treason in conspiring against the king in 1722, very ably and efficiently performing his duty on that important trial. A few months before the death of George I., the office of chief baron of the Exchequer becoming vacant, Sir Thomas was appointed to fill it on October 16, 1726.[1] He presided in that court for four years and a half, and during that time he is only noticed in the State Trials as having tried William Hales on some of the numerous indictments found against him in 1729 for forgery; in which he exhibited that patience and firmness as well as legal knowledge and discrimination, by which a good judge is distinguished. He fell a victim to the cruel and disgusting manner in which prisoners were treated in that age. Travelling the Western Circuit, some culprits were brought before him from Ilchester for trial at Taunton, the stench

[1] Lord Raymond, 1309, 1410; State Trials, xvi. 140, 1330.

from whom was so bad, that an infection was spread which caused the death of some hundreds of persons. Among them was the lord chief baron, who died at Blandford on April 14, 1730.[1]

He was considered when at the bar as a florid speaker and bold advocate, though perhaps at times too vehement. Steele's quibble on his name—"As *Pen* is the Welsh term for head, *guelt* is the Dutch for money, which with the English syllable *ly*, taken together, expresses one who turns his head to lye for money,"—must be wholly disregarded, as it was prompted by anger at having the license of his theatre taken away. As a judge he held a high reputation for his learning and his equal distribution of justice; and in his private character he was esteemed for his probity and cheerfulness. His charity was not confined to his life, for by his will he left a considerable sum for the discharge of prisoners confined for debt.[2]

## PRICE, ROBERT.

Just. C. P. 1727.

*See* under the Reigns of Anne and George I.

From the ancient stock of one of the noble tribes of Wales the immediate ancestors of Robert Price descended. They were located at Geeler in Denbighshire, of which one of them was high sheriff. The judge's father was Thomas Price of Geeler, and his mother was Margaret, daughter and heir of Thomas Wynne of Bwlch-y-Beyde in the same county. He was their second son, and was born in the parish of Kerid-y-Druidion on January 14, 1653; and after receiving his education at Wrexham and St. John's College, Cambridge, he entered Lincoln's Inn in May 1673. Having devoted three or four years in laying a good substratum of

[1] State Trials, xvii. 219–250; Gent. Mag. xx. 235.

[2] Noble's Cromwell, i. 175; Cont. of Granger, iii. 194.

law, he adopted in 1677 for his amusement and improvement the then fashionable practice of taking the grand tour, and in company with some noble friends spent two years in visiting all parts of France and Italy. In this period of relaxation he did not forget his professional studies, and among the books which he took with him was Coke upon Lyttelton. This mysterious work the scrutinising officers at Rome thought was an heretical English Bible, and seizing it carried off its possessor to the Pope. Mr. Price soon satisfied his holiness that the laws it illustrated, though not divine, were orthodox; and presenting it to the holy father, it is to be hoped that it still graces the Vatican Library. On his return he was called to the bar in July 1679.

In the September of that year he married Lucy, one of the daughters and co-heirs of Robert Rodd, Esq. of Foxley in Herefordshire. After being the mother of three children, it seems that her misconduct dissolved the connexion. Under the date of November 21, 1690, Luttrell records that "Robert Price, Esq. got 1500*l.* damages in an action against Mr. Neal for *crim. con.*"[1] He did not obtain a divorce, but though she survived her husband, the "Life" that was published of him immediately after his death omits all subsequent allusion to her; and the judge's will, which speaks with affection of, and provides with liberality for, all his other connexions, only coldly mentions her in a legacy of 20*l.* "for mourning," and in a charge on his estates of an annuity of 120*l.* "pursuant to a former agreement and settlement between us."

He soon became known at the bar, and being of the then court-party he was made attorney-general of South Wales in 1682, and recorder of Radnor in the following year. He was complimented also by being elected alderman of Here-

[1] Luttrell, ii. 231. Noble (Cont. of Granger, iii. 200) alludes to the separation, and gives her violent temper as the cause.

ford, about five miles from his seat at Foxley. It is stated in his "Life," and repeated by subsequent biographers, that he voted against the bill of exclusion in 1682; but this is palpably an error, as no parliament sat in that year, and he was not a member of either of the parliaments in which the bill was introduced. His sentiments however were probably known, as on the death of Charles II. King James appointed him steward to the queen dowager, and king's counsel at Ludlow. The corporation of Gloucester also elected him town clerk in 1687, in the place of Mr. (afterwards Justice) John Powell; but upon the latter appealing to the court of King's Bench, Mr. Price consented to his restoration (2 Shower, 490). In James's short and only parliament, in which he represented Weobly, he does not appear to have taken any active part.

King William removed him from his Welsh attorney-generalship. Although of course he was not returned to the Convention Parliament, he was elected by his former constituents to that summoned in the next year; and also for the two following in 1695 and 1698; and that which met in December 1701. In 1695 he distinguished himself by strenuously opposing the exorbitant grant made by the king to the Earl of Portland of extensive lands and lordships in Wales, and enforced his objections with such power and effect that upon an address of the house the king was obliged to annul it. In the next year he took an active part in the proceedings in Sir John Fenwick's case. The only state trial in which he was engaged as counsel was that of Lord Mohun in the House of Lords for the dastardly murder of William Mountford the actor, which resulted in the acquittal of his client; and the only promotion he received was that of a Welsh judgeship in 1700, when the Tories had regained power; which appointment he held to the end of the reign.[1]

[1] Parl. Hist. v. 979, 1016, 1041, 1045; State Trials, xii. 1020.

On the accession of Queen Anne, some of the judges being removed, Mr. Price was constituted a baron of the Exchequer on June 14, 1702, in the place of Sir Henry Hatsel, he and Sir Thomas Powys being made serjeants on the day before and giving rings with the motto "Reginâ et lege gaudet Britannia." In this court he remained the whole of that reign and nearly to the end of the next; when he obtained a removal into the Common Pleas on October 16, 1726, in the place of Mr. Justice Dormer deceased. The anticipation of less labour in this new arena, which is attributed to him, could scarcely have been the cause of this change; and his disappointment in this respect in the alleged increase of business in the Common Pleas in consequence of his accession to that bench, has not much probability; though the following lines in some eulogistic verses written after his death seem to point to such a consequence:—

> "When Price reviv'd the crouding suitors' sight,
> The Hall of Rufus was the seat of Right.
> In all her arts was Fallacy beguil'd,
> The orphan gladden'd, and the widow smil'd;
> Sure to behold, in ev'ry just decree,
> The friend, the sire, the consort, shine in thee.
> Mild Equity resum'd her gentle reign,
> And Bribery was prodigal in vain."

In 1718 he and Mr. Justice Eyre were the only two judges who gave an opinion adverse to the king's claim of prerogative with regard to the education of the royal grandchildren, and supported their view by an able argument delivered to his majesty. George II. was of course impressed in his favour, and on coming to the crown continued him in his place; which he filled during the remainder of his life. After a long judicial career of no less than thirty-one years he died on February 2, 1733, at Kensington; and was buried in the church of Yazor in the county of Hereford.

The "Life" of Mr. Justice Price, written by its pub-

lisher, the notorious Edmund Curll, within a year of his death, is the foundation of all the biographical notices that have since appeared. As it was compiled "by the appointment of the family," it cannot fail to be regarded as little more than an extended epitaph; and the eulogies of which it is full would naturally be received with considerable qualifications. Yet, making due allowance for its party exaggerations and for some errors in facts and dates, which its copyists have carelessly repeated, from all that can be collected of his career, the character that it gives him is substantially true. Though a steady Tory in politics, no Whig pen writes a word in his dispraise; his courage in opposing the royal wishes receives no check, in consequence of the known honesty of his principles; his desire and pains to get at the truth of matters on which his opinion was required is evidenced by letters recently published by the Camden Society[1]; and his charity is manifested by his erection and endowment of an almshouse for six poor people in the parish of his birth, and by the care that he took in his will not only for the perpetuation of that institution, but for the continuance also of his other benefactions. His will, by its provisions for his issue to the third generation, is the best proof of his affectionate disposition, and of the love with which he was regarded by the whole of his family.

As he never received the knighthood by which the judges were usually distinguished, it may be presumed that he declined the honour. His three children were, Thomas, the eldest, who died on his travels in Italy during his father's life; Lucy, the second, who married her cousin Bampfylde Rodd, Esq.; and Uvedale, the third, who succeeded to the judge's estates, and whose grandson received a baronetcy in 1828, which became extinct in 1857.[2]

[1] Ellis's Letters to Eminent Literary Men, 315, 328, 335.

[2] Life of Judge Price, 1734; Noble's Cont. of Granger, iii. 200.

## PROBYN, EDMUND.

JUST. K. B. 1727. CH. B. E. 1740.

*See* under the Reign of George I.

THE name of Probyn was long known and esteemed among the gentry of the county of Gloucester, and the Probyn Aisle in the church of Newland in the Forest of Dean contains many memorials of the respectability of a long line of residents in the parish. The chief baron's ancestors possessed considerable property there, to which his father William Probyn was heir. His mother was Elizabeth, daughter of Edmund Bond of Walford in Herefordshire. The elder of two sons, he was born about the year 1678, and went through the legal curriculum at the Middle Temple, where he was admitted in 1695, and took the degree of barrister in 1702.

After spending nearly twenty years in the usual forensic drudgery of the profession, he occupied the position of a Welsh judge in 1721. Called serjeant in 1724, he was employed in January of the next year by the Earl of Macclesfield to conduct the defence against his impeachment; but notwithstanding the pains he took and the lucid argument he delivered, he failed to satisfy the peers of his client's innocence.[1] The ability he showed on that occasion no doubt pointed him out for promotion; and accordingly on November 4, 1726, he was constituted a judge of the King's Bench in the room of Sir Littleton Powys; and was thereupon knighted. He displayed so much learning and judgment in the exercise of this office for fourteen years, that he was selected on November 28, 1740, to succeed Sir John Comyns as lord chief baron of the Exchequer; a dignity which he held less than eighteen months; his death occurring on May 17, 1742. He was buried in Newland church. The tradition of his benevolence and kindness among his neighbours

[1] Notes and Queries, 2nd Series, x. 443; State Trials, xvi. 1080.

and dependents is still the subject of many a tale in the district where he resided.

He married Elizabeth, daughter of Mr. Justice Blencowe, but leaving no issue he devised his estates in Gloucestershire to his nephew John Hopkins, Esq. of Lincoln's Inn, provided he assumed the name of Probyn. One of this gentleman's grandsons became dean of Llandaff, whose son still preserves the name and family estates, and has kindly furnished me with several particulars of the family.[1]

## RAYMOND, ROBERT, Lord Raymond.

Ch. K. B. 1727.

*See* under the Reign of George I.

Robert, the only son of Sir Thomas Raymond, a judge in each of the three courts in the reign of Charles II., by his wife Ann, daughter of Sir Richard Fish, Bart., was destined to be a lawyer from his infancy. Born in 1673, his father was so determined to bring him up to the profession, that nine months before his death he induced the Society of Gray's Inn, where he began his own career, to admit the boy on November 1, 1682, when only nine years old. No doubt the young student was excused attendance on the usual exercises until he had completed the rest of his education; but the devotion which he paid to his father's wishes is shown by his early adoption of the most efficient course of acquiring practical legal knowledge. He constantly attended the courts, and his successors at the bar benefit to the present day by the fruits of his industry. His Reports commence in Easter Term, 1694, when he was but twenty years old, and more than three years before he was called to the bar. They finish in Trinity Term, 1732, a year before his death; thus extending over thirty-eight years, during the reigns of

[1] Noble's Cont. of Granger, iii. 197; Gent. Mag. xii. 275.

four sovereigns. They were not published till ten years after his death; but are so highly valued, and still regarded as such high authority, that they have been several times reprinted under the editorial care of eminent lawyers.

His call to the bar did not take place till November 12, 1697, fifteen years after his admission: but he got into immediate practice, he himself reporting a case in which he was engaged in a learned argument in Michaelmas 1698. In 1702 we find him employed as junior counsel in the prosecution of Richard Hathaway as a cheat and impostor in pretending to be bewitched by Sarah Murdock, whom he brought to trial for her life. By the conviction in this case, indictments for witchcraft almost entirely ceased. In 1704 he very ably and strenuously (and in the event effectually) defended David Lindsay on a charge of high treason in returning to England from France without leave; and in 1706 he was of counsel for the prosecution of Beau Fielding for bigamy, in marrying the Duchess of Cleveland, his first wife being alive.[1]

In Queen Anne's parliaments of 1710 and 1714 he was returned for Bishop's Castle, having been knighted on May 13 in the former year on being made solicitor-general; an office from which he was removed on October 14 in the latter year by the advice of Lord Cowper on the arrival of George I. in England. In that king's first parliament of 1715, Sir Robert was elected for Ludlow, and in the second of 1722 for Helston. In the former he joined with the Tories in opposing the Septennial Bill in 1716, which was however passed by a large majority. While still a member he was again taken into the king's service, and appointed attorney-general in May 1720, in which character he conducted the prosecution against Christopher Layer for high treason in November 1722. At the end of the following year he was

[1] Lord Raymond, 354; State Trials, xiv. 642, 989, 1329.

designated to be the successor of Sir Robert Eyre as a judge of the King's Bench, into which office he was sworn on January 31, 1724, having on the same day received the degree of the coif.[1]

On the removal of Lord Chancellor Macclesfield, Sir Robert was appointed one of the three commissioners of the Great Seal, which they held from January 7 to June 4, 1725. During the interval the death of Sir John Pratt occurred, and Sir Robert Raymond was put in his place as chief justice of the King's Bench on March 2; still continuing to act as commissioner till Lord King became chancellor. The judgments delivered by him during the eight years he presided in the King's Bench are most elaborate, and display a great fund of legal knowledge. In the state trials before him he was patient, impartial, careful, and discriminating. In one of them, that against Curll, the bookseller, he established the doctrine that to publish an obscene libel is a temporal offence; and the delinquent was punished on this confirmation of his conviction. George II. on his accession continued him in his place, and so highly appreciated his character and judicial talent, that in acknowledgment of his services he raised him to the peerage on January 15, 1731, by the title of Lord Raymond of Abbots Langley in Hertfordshire. In the House of Lords he distinguished himself by opposing the bill enacting that all proceedings in courts of justice should be in the English language; alleging that if the bill passed the law must likewise be translated into Welsh, as many in Wales understood not English. Though the alteration was unpopular among lawyers (even Lord Ellenborough thought it tended to make attorneys illiterate), it happily became law, to the great benefit and comfort of the community.[2]

[1] Lord Raymond, 1309, 1318, 1331; Parl. Hist. vii. 335; State Trials, xvi. 97.
[2] Lord Raymond, 1380, 1381; Parl. Hist. viii. 861.

Lord Raymond died at his house in Red Lion Square on March 19, 1733, and was buried at Abbots Langley, in which parish his country seat was situate, and where a handsome monument was erected to his memory. By his wife Anne, daughter of Sir Edward Northey, the attorney-general, he left an only son of his own name, upon whose death in 1753 the title became extinct.[1]

## REEVE, THOMAS.

JUST. C. P. 1733. CH. C. P. 1736.

THE real name of this judge was Reeve, though he is frequently called Reeves. He was the son of Richard Reeve, Esq., of New Windsor, who erected four almshouses in the parish. Admitted first a member of the Inner Temple in 1709, he transferred himself to the Middle Temple, and was called to the bar by the latter society in 1713. He had such success that he was made king's counsel so early as 1718, and soon afterwards attorney-general for the duchy of Lancaster. He became a bencher of the Middle Temple in 1720, and was appointed Lent reader in 1722. In the latter year he was counsel for the crown in support of the bill of attainder against Bishop Atterbury and the other parties implicated in the same conspiracy; and in 1730 he most ably advocated the cause of the widow of Robert Castell in the appeal of murder against Bambridge the warden of the Fleet. Upon the death of Mr. Justice Price he was constituted a judge of the Common Pleas in April 1733, and knighted; and after sitting there for nearly three years he was advanced to the head of the court in January 1736 in the place of Chief Justice Sir Robert Eyre. His enjoyment of this post was limited to a single year, as on January 13, 1737, he died, and was succeeded by Sir John Willes.[2]

[1] Strange, 948; Collins's Peerage, ix. 432.

[2] State Trials, xvi. 469, 607, xvii. 398; Gent. Mag. iii. 215, vi. 56, vii. 60.

Learned himself, he was an encourager of the aspirants to learning; and that he was a favourite among the literary men of the day is apparent, not only from the dedications to him of the poems on the king's birthday in 1718 and 1723, one of which was the production of Henry Nevil, but also from numerous printed and manuscript verses written in his laudation. Among the latter is the following acrostic, composed after his death by a William Sidney, who certainly does not shine as a poet:—

T hrough the wide world Britannia is admir'd,
H er happy form of government desir'd;
O ur righteous laws numberless ills prevent,
M ake villains fear, and guard the innocent:
A ll our chief blessings they increase,
S ecuring right, sweet liberty, and peace.

R eeves, long among the learn'd in Britain's laws,
E steem'd has shone; and many a knotty cause
E xplain'd so true, he gain'd repute and fame:
V irtues and parts adorn his valued name;
E xalted justly to Astræa's seat,
S uperior in his trust, his merit great.

He resided at Eton and at Gey's House, Maidenhead; and at his death his personal estate was estimated at 22,675*l.*; besides real estates of considerable rental; among which was a moiety of the playhouse in Lincoln's Inn Fields, let to Rich at 100*l.* per annum. His wife was Annabella, sister of Richard Topham, Esq. of New Windsor, keeper of the records in the Tower, who bequeathed his library to Eton College. Leaving no issue, the property she had from her brother devolved to Lord Sidney Beauclerk; and the judge's nephew Thomas Reeve succeeded to his uncle's estates, and left two daughters, on the death of whom the family became extinct.[1]

[1] For much information and the inspection of many documents relating to this judge, I am indebted to the kindness of John Payne Collier, Esq., F.S.A., who occupied the family residence, Gey's House.

## REYNOLDS, JAMES (1).

JUST. K. B. 1727. CH. B. E. 1730.

*See* under the Reign of George I.

THERE are two judges of the name of James Reynolds in this reign; one lord chief baron, and the other baron of the Exchequer. They were not contemporaries in Westminster Hall, the former being dead before his namesake ascended the English bench, although he had been chief justice of the Common Pleas in Ireland for nearly thirteen years before. The chief baron's great-grandfather (who was also the baron's ancestor) was Sir James Reynolds of Castle Camps in Cambridgeshire, who flourished in the reign of Queen Elizabeth, and died in 1650, aged eighty. His grandfather and father were also named James, both residing at Bumstead Helions in Essex. The estate of the former, who married Dorothy, a daughter of Sir William De Grey of Merton in Norfolk (the ancestor of his namesake the future chief justice and Lord Walsingham), was decimated during the Rebellion, on account of his loyalty and great zeal for King Charles. The latter in 1655, at the age of twenty-two, married Judith the eldest daughter of Sir William Hervey of Ickworth near Bury St. Edmunds, ancestor of the Marquis of Bristol. By this lady, who was then forty years of age, he had three sons; and after her death in 1679, he took for his second wife in 1682, Bridget, daughter of —— Parker, who survived her husband thirty-three years, and died in 1723. Both the ladies were buried at Castle Camps.

By the latter marriage he had an only son, James, the future chief baron, who was born on January 6, 1686, at the house of his mother's aunt Gibbs in Clerkenwell. His precise relationship to the other judge I cannot trace with certainty; but as by his will he bequeathed a large legacy to his niece, bearing the family name of Judith,—and as the

other judge (to whom the chief baron had before his second marriage devised his estates in Cambridgeshire) had a sister named Judith, it would seem, if she were the same Judith, that he was the nephew of the chief baron, and perhaps the son of the chief baron's half-brother, Robert.[1]

The chief baron was initiated into the mysteries of the law at Lincoln's Inn, which he entered in May 1705. He was called to the bar in 1712; and was included in the batch of serjeants created by George I. in the first year of his reign. Having been in 1712 elected recorder of Bury St. Edmunds, probably by the influence of the Hervey family, then ennobled, that borough returned him as its representative in 1717 to supply a vacancy; and again elected him to the second parliament of that king in 1722. In 1718 he was selected by the Prince of Wales to argue in favour of his royal highness's claim to educate his own children; but the judges, with only two dissentients, decided that the care and education of the king's grandchildren belonged to his majesty by the royal prerogative.[2]

His argument did not prevent George I. from promoting him. On the elevation of Sir Robert Raymond to the presidency of the King's Bench, Mr. Serjeant Reynolds was appointed a judge of that court in March 1725. Neither did his old client George II. forget him, but on the death of Sir Thomas Pengelly in April 1730 raised him to the office of lord chief baron. After presiding in the Exchequer for eight years he resigned in July 1738; and about seven months afterwards died on February 9, 1739. He was buried in St. James's church, Bury St. Edmunds, where there is a splendid monument to his memory, with a Latin inscription alluding to an attack of paralysis which impeded his professional career for a year while he was serjeant, and the renewal of

[1] Collins's Peerage, iv. 149; Gage's Suffolk, 287; Morant's Essex, ii. 522, 532.
[2] State Trials, xvi. 1203.

which compelled his resignation. In it he is called "Armiger," showing that he never accepted the customary honour of knighthood.

That the graceful account of his merits as a judge and as a man which that inscription records is not exaggerated, may well be believed from the prayer (still in existence) which he was in the daily habit of using, petitioning for "that measure of understanding and discernment, that spirit of justice, and that portion of courage, as may both enable and dispose me to judge and determine those weighty affairs, which may this day fall unto my consideration, without error or perplexity, without fear or affection, without prejudice or passion, without vanity or ostentation, but in a manner agreeable to the obligation of the oath and dignity of that station to which Thou in Thy good providence hast been pleased to advance me."

The chief baron was twice married. His first wife was Mary, one of the two daughters and co-heirs of Thomas Smith, Esq., of Thrandeston Hall, Suffolk. She died in July 1736; and on September 11 of that year he made his will, leaving his Cambridgeshire estates to James Reynolds, chief justice of the Irish Common Pleas. His second wife was Alicia, daughter of —— Rainbird, whom he married just a year after his first wife's death; for by a codicil to his will dated September 12, 1737, he revokes his previous devise to the chief justice, and devises his estates to her. He left no issue by either wife. On his elevation to the bench he resigned the recordership of Bury, but showed his affection for that borough by leaving 200*l.* to its corporation. His widow afterwards became the wife of Mr. Richard Markes of Farnham St. Genevieve; and then of Robert Plampin, Esq., of Chadacre Hall in Suffolk, whom she also survived, and died in 1776.[1]

[1] For many of the particulars in this and the succeeding memoir, I am indebted to the kindness of the Venerable Archdeacon Hale, of the Rev. J. G.

## REYNOLDS, JAMES (2).

B. E. 1740.

This judge, who was born in 1684, was, according to the inscription on his monument at Castle Camps, Cambridgeshire, "the last male descendant of Sir James Reynolds, Knight, who flourished in these parts in the reign of Queen Elizabeth." Though I am unable to state with certainty the real connection by relationship between him and Chief Baron James Reynolds, I conceive, for the reasons already given in the life of the latter, that he was the nephew of the chief baron, although born two years before that judge. They both had property in the manor of Castle Camps, which lies on the borders of Essex in the neighbourhood of Bumstead-Helions. The baron is described in the books of Lincoln's Inn, to which he was admitted in February 1704, as the son and heir-apparent of Robert Reynolds of Bumstead in Essex. This gentleman I believe was the half-brother of Chief Baron James Reynolds, and a son of James Reynolds of Bumstead by his first wife Judith, the daughter of Sir William Hervey of Ickworth. Robert married Kesiah Tyrrell, the granddaughter of Sir William Hervey, another of whose daughters, Kesiah, married Thomas Tyrrell of Gipping in Suffolk.

The baron was called to the bar in May 1710; but nothing is recorded of him till he was sent to Ireland on November 3, 1727, as chief justice of the Common Pleas. In that court he sat for thirteen years, and by his professional talents and accomplished manners endeared himself to all parties. On retiring from this honourable post he was appointed a baron of the English Exchequer, and took his seat there in May 1740, in the place of Mr. Baron Parker, removed to

Bode of Castle Camps, of the Rev. A. H. Wratislaw, and of Mr. Herbert Frere of Great Yarmouth, a connection of the family. See also Notes and Queries, 3rd Series, i. 235, iii. 54.

the court of Common Pleas. He was not knighted till May 23, 1745, on going up with the judges' address. He administered justice on the English bench for seven years, and dying on May 20, 1747, he was buried in the church of Castle Camps; and as his monument there was erected by his sister Judith, it is probable that he never married.[1]

## RYDER, DUDLEY.

CH. K. B. 1754.

THE excellence of the English constitution in opening the door of honour for the entrance of merit, without regard to pedigree, obtains another illustration in the advance of Dudley Ryder, by the force of talents and industry, to the head of the highest court of law, and to the threshold of the House of Peers, which a sudden death only prevented him from entering. His grandfather was the Rev. Dudley Ryder, a nonconformist minister living at Bedworth in Warwickshire. His father was Richard Ryder, a respectable mercer in the Cloisters, West Smithfield, London; where his elder brother carried on the same business. His mother was Elizabeth, daughter of —— Marshall. He was their second son, and was born on November 4, 1691. His education commenced at a dissenting school at Hackney, whence he was sent first to the University of Edinburgh and then to that of Leyden. By two lines in the satirical poem, the "Causidicade," which has been before referred to, he appears to have been designed for the ministry. The author makes a Puritan candidate for the solicitor-generalship say,

> "The Cloak and the Band, it is very well known,
> I've, like R—d—r, declin'd for the sake of this gown."

That this had some foundation seems probable, from his not choosing the law as his profession till he was twenty-two

[1] Smyth's Law Off. of Ireland, 121, 309; Gent. Mag. at the dates. See note to the last life.

years of age. He delayed his admission to the Middle Temple as a student till 1713, and was not called to the bar till 1719. Like Lord Talbot he subsequently removed to Lincoln's Inn, where he was called to the bench in 1733, and made treasurer in the following year.

His success in prosecuting his forensic duties was secured by his abilities, his attention, and his punctuality; which met their reward in December 1733 when Sir Philip Yorke and Mr. Talbot received their promotion. Mr. Ryder, who had been in the early part of that year elected representative in parliament for St. Germains in the place of one of their deceased members, was then appointed solicitor-general. He filled this office till January 1737, when he succeeded Sir John Willes as attorney-general. In the next year he seems to have been designed for the successor of Sir Joseph Jekyll as master of the Rolls, and his appointment was actually announced; but probably on account of his disinclination to the post, it was given to the Hon. John Verney. Mr. Ryder was knighted in May 1740; and for more than seventeen years he filled this important office, no vacancy in the headship of either of the principal common law courts occurring in the interval. One of the most unpleasant duties he had to perform was that of conducting the trials of the noblemen and others who were concerned in the Rebellion of 1745, the details of which are narrated in pp. 529 864 of vol. xviii. of Howell's "State Trials." He represented Tiverton in the parliaments of 1735, 1741, and 1747; and was a frequent speaker; principally on subjects connected with his official position, and defending bills introduced by the government. None of his speeches were particularly brilliant, but all showed extreme good sense and temperance in judgment.

The death of Sir William Lee at length gave the ministers the opportunity of rewarding the long services of Sir Dudley, who was accordingly, with the approbation of Lord

Chancellor Hardwicke, inaugurated as lord chief justice of the King's Bench on May 2, 1754. He presided in that court for little more than two years; but long enough to prove himself so efficient and accomplished a judge, that his elevation to the peerage was determined upon, the warrant signed, and a day appointed for him to kiss hands as Lord Ryder of Harrowby. But being taken ill on the same day he could not attend; and dying on May 25, 1756, the day after, before the patent was completed, the creation of course fell to the ground. That his son's name was not immediately substituted was considered by some as a hardship; and the omission, which was probably occasioned by his minority, was not supplied till twenty years afterwards, when being ennobled by the same title, he adopted the happy motto "Servata fides cineri." The chief justice was buried at Grantham, where there is a handsome monument erected to his memory.

By his wife Anne, daughter of Nathaniel Newnham of Streatham in Surrey, he left an only son, who, having been created Baron Harrowby in 1776, was succeeded by his son Dudley, who for his services to the crown in various important offices was promoted to an earldom in 1809, to which was added the Viscounty of Sandon in Staffordshire.[1]

## SMYTHE, SIDNEY STAFFORD.

B. E. 1750. COM. G. S. 1756.

*See* under the Reign of George III.

## STRANGE, JOHN.

M. R. 1750.

SIR JOHN STRANGE, who was born about 1695, is described in his admission to the Middle Temple in 1712 as the son and

[1] Collins's Peerage, v. 717; Walpole's Memoirs, ii. 46; Strange, 1133; Burrow's S. C. 365, 368; Gent. Mag. at dates.

heir of John Strange of Fleet Street, gentleman. He was for some time a pupil of Mr. Salkeld of Brooke Street, Holborn, the attorney in whose chambers Lord Hardwicke had before had a seat; and Mr. Harris relates that he used to carry his master's bag to Westminster (which in my time clerks did not consider an indignity) and witnessed Sir Joseph Jekyll's first appearance as master of the Rolls in 1717, little thinking that he himself should eventually fill the same office.[1] He was called to the bar in the next year, and appears as junior counsel for the Crown in 1722 and for several years after. In 1725 he was engaged for the defence in the impeachment of the Earl of Macclesfield, the result of which, notwithstanding the able advocacy of himself and his colleagues, was so disastrous to his noble client.

His Reports, which were not published till after his death, were commenced in Trinity Term 1729. He maintained such a reputation at the bar that he was appointed king's counsel in February 1736, when he was called to the bench of his inn, and elected autumn reader in the following year. In the previous Hilary Term he became solicitor-general, on the promotion of Sir Dudley Ryder, and succeeded Sir John Willes, the new chief justice of the Common Pleas, as the representative of West Looe; commencing his senatorial career by a long speech against the provost and city of Edinburgh arising out of the murder of Captain Porteous. In November 1739 he was elected recorder of London in the place of Mr. Baron Thomson, the citizens thinking that an office which a judge had condescended to hold, might with equal propriety be filled by a solicitor-general. In the next year he received the honour of knighthood.

To the surprise of Westminster Hall he resigned both these offices in December 1742; when Mr. Serjeant Urling succeeded him as recorder, and the Hon. William Murray

[1] Harris's Life of Lord Hardwicke, i. 33.

(afterwards Lord Mansfield) as solicitor-general. Sir John in his Reports (p. 1176) thus accounts for his retirement:

"Memorandum.—Having received a considerable addition to my fortune, and some degree of ease and retirement being judged proper for my health, I this term resigned my offices of solicitor-general, king's counsel, and recorder of the city of London, and left off my practice at the House of Lords, Council Table, Delegates, and all the courts in Westminster Hall except the King's Bench, and there also at the afternoon sittings. His Majesty, when at a private audience I took my leave of him, expressed himself with the greatest goodness towards me, and honoured me with his patent to take place for life next to his attorney-general. Anno ætatis meæ 47."

Other motives than those he here assigns are attributed to him in the following lines in the before-cited poem, called the "Causidicade" (p. 3), in which the claims of the various supposed candidates for the vacant office are satirised.

> "The inquisitor-general resigning his place,
> As wisely foreseeing approaching disgrace;
> Or to cross his proud rival, and so raise his *brother*,
> In fee with the S—l's,—or, for some cause or other,
> Oblig'd from his post to advance or retreat,
> He chus'd e'en the last, for merely the state
> And parade of appearance in speaking the second,
> In his cap a mere feather, as most people reckon'd.
> Thus a captain of horse his commission gives up
> To be only the dexter-hand man of the troop."

A certain forwardness of pretension is afterwards (p. 14) imputed to him, in the address of the Lord Chancellor to Mr. W—br—m, a modest applicant:

> "But there's an objection, I own of the oddest,
> Which stands in your way,—you are really too modest.
> It requires an assurance, and one that can push on,—
> As witness the wight who was last in possession."

The only occasion on which he appears not to have persisted in his resolution to confine his practice to the Court of

King's Bench, was in assisting at the trials in 1746 at St. Margaret's Hill, Southwark, and in the House of Lords, of the prisoners implicated in the then late rebellion.

His last promotion was on January 11, 1750, when he was selected to supply the vacancy in the office of master of the Rolls, occasioned by the death of William Fortescue. After enjoying it for about four years he died on May 18, 1754, and was buried in the Rolls Chapel. He continued in parliament till his death, representing Totness since 1741; but no speech of his is reported except that before mentioned in 1737. Five years after his decease his son published his Reports in all the four courts, extending from 1729 to 1748; which were considered of so much value as to require three subsequent editions. Whatever the satirist may say, it is clear that he enjoyed the esteem and friendship of Lord Hardwicke; and the Duke of Newcastle on his death speaks of him as "one whom he honoured and loved extreamly for his many excellent publick qualities and most amiable private ones." He adds, "I scarce know any man with whom I had so little acquaintance that I should more regret."

He married Susan, daughter and co-heir of Edward Strong, Esq., of Greenwich, by whom he had two sons and seven daughters. His eldest son John became British resident at Venice, and was a very distinguished antiquary and naturalist.[1]

## TALBOT, CHARLES, Lord Talbot.

Lord Chanc. 1733.

From illustrious ancestors, ennobled almost from the time of the Conquest, Charles Talbot traces his descent. The branch to which he directly belonged was that of Sir Gilbert Talbot, the third son of John, second Earl of Shrewsbury, who

[1] State Trials, xvi.–xviii.; Parl. Hist. x. 275; Strange, 1068, 1133, 1176; City List of Recorders; Pat. 23 Geo. II. p. 3, n. 15; Harris's Hardwicke, iii. 11; Notes and Queries, 3rd Series, i. 353.

flourished in the reign of Henry VIII. In lineal succession from Sir Gilbert came William Talbot, bishop successively of Oxford (1699), of Salisbury (1715), and of Durham (1722), who, by his second wife, Catherine, daughter of —— King, an alderman of London, was the father of a large family of sons and daughters. His eldest son was the future lord chancellor, who was born in the year 1684, and was sent in 1701 to complete his education at Oriel College, Oxford, where he stayed three years. Having then proceeded to his bachelor's degree, he was elected fellow of All Souls' College, and purposed to devote himself to the clerical profession. But by the recommendation of Lord Chancellor Cowper he was induced reluctantly to forego this intention, and to enter the legal arena, as more calculated to exhibit and turn to useful account the extraordinary talents with which he had been gifted.

He accordingly entered the Inner Temple in June 1707, and was called to the bar in September 1711. His abilities were soon recognised, and before many years he had acquired the leading practice in the Equity Courts, to which the countenance of Lord Cowper no doubt contributed. Before his lordship retired from the chancellorship, Mr. Talbot was appointed, in May 1717, solicitor-general to the Prince of Wales, and in April 1726 he was promoted to the same office in the service of the king. In that year he was elected bencher, treasurer, and Lent reader to his original inn of court, the Inner Temple; and also bencher, treasurer, and master of the library to Lincoln's Inn, to which society he had been also admitted in 1718, for the purpose of occupying chambers there.[1] He became a member of parliament in 1719, on a vacancy in the borough of Tregony; but in the next parliament of 1722 he was returned for Durham, of

[1] Lord Campbell's Chancellors, iv. 654.

which his father had then been made bishop; and was again elected its representative in the first parliament of George II.

That king continued him in his office of solicitor-general, and he and the attorney-general, Sir Philip Yorke, exercised an almost absolute supremacy in the practice of the Court of Chancery, remedying, it is said, even when engaged on opposite sides, the somnolency of Lord Chancellor King, by settling the minutes in the causes with justice to both parties. Mr. Talbot's professional income at this time must have been very large; but he was unworthily taxed by the munificent extravagance of his father, being obliged on two several occasions to pay the debts which the bishop had incurred in excess of his splendid revenue.

So meagre are the accounts of forensic or parliamentary eloquence at this time, that few examples remain of that which Mr. Talbot displayed either as an advocate or a senator; and those only of an official character. But there can be no doubt, not only of his general reputation as an orator, but of the esteem and respect in which he was held both as a lawyer and as a man, since his elevation to the highest judicial dignity in the State met with universal approbation. That occurred on the resignation of Lord King, when the Great Seal was delivered to him as lord chancellor on November 29, 1733; a few days after which he was ennobled with the title of Baron Talbot of Hensol in Glamorganshire, an estate formerly belonging to the celebrated Welsh judge David Jenkins, which he had acquired by his marriage in 1711 with the judge's descendant, Cecil, daughter and heir of Charles Matthews, Esq., of Castle Mynach in that county. His promotion was celebrated at the Inner Temple by a splendid entertainment, described in a former page, and noted as the last of the ancient revels, in the performance of which the Inns of Court were wont to take so much pride.

No man ever occupied the high position he had attained

with more unmixed admiration; nor did the death of any great judicial dignitary ever cause so much general lamentation. Living too short a time to excite the jealousy of his colleagues in the ministry, or to become obnoxious to the Opposition, he presided long enough in his court to prove himself a most efficient and impartial judge. His patience in listening to arguments, his discrimination in sifting facts, his readiness in applying precedents, and the reasons upon which he founded his judgments, made his decrees acceptable to the legal community, and prevented murmurs even among the unsuccessful litigants. The purity of his life, his unblemished integrity, his humanity to the distressed, his liberality to all, his gentleness of manners, his urbanity, cheerfulness and wit, gained him so many friends, and were so universally recognised, that he not only escaped the vituperation of political writers during his life, but both parties after his death vied with each other, both in prose and verse, in unqualified encomiums on his character.

A story is told of him, that after he had promised a valuable living to a friend of Sir Robert Walpole, the curate of the late incumbent called upon him with a petition from the parishioners, testifying to his merits and his poverty, and entreating his lordship to use his influence with the new rector to continue him in the curacy. After some little conversation with him and finding that his stipend was only 50*l.* a year, his lordship kindly promised not only to comply with the request, but also to do what he could to get the salary raised. When the rector-expectant came to thank him for his promise, his lordship mentioned the curate's petition, and begged it might be granted. "I should be happy to oblige your lordship," replied the clergyman, "but I have promised my curacy to a particular friend." "Promised your curacy! what, sir, before the living is yours?" "Yes, my lord." "Then, sir," exclaimed the chancellor,

with warmth, "I will afford you an admirable opportunity of dismissing your friend,—I will dispose of the living elsewhere;" and without suffering a reply, dismissed him. On the curate's waiting upon him to know the result of his application, he told him that he was sorry to say that he could not get him the curacy; but on the poor man bowing and offering to retire, the chancellor stopped him and said, "Though I cannot give you the curacy, I can give you the living, and yours it is; so you may write to your family and tell them that although you applied only for the curacy, your merit and your modesty have obtained for you the living."[1]

His short but illustrious career was terminated on February 14, 1737, by an attack of inflammation on the lungs. His remains were removed from his house in Lincoln's Inn Fields to be interred in the church of Barrington in Gloucestershire, where his residence was situated.

By his lady he left five sons. His successor William was created Earl Talbot in 1761, but dying without male issue in 1782 the earldom became extinct, and the barony devolved on his cousin John Talbot; in whom the earldom was revived in 1784, with the addition of the viscounty of Ingestrie; titles which are still borne by his descendant, together with that of Earl of Shrewsbury, to which the present peer succeeded in 1856.[2]

## THOMSON, WILLIAM.

Curs. B. E. 1727. B. E. 1729.

*See* under the Reign of George I.

The life of this judge presents both an uncommon succession of offices, and an extraordinary combination of them. First, he was recorder of London, and then solicitor-general,—a

[1] Law and Lawyers, ii. 147. Lord Campbell says (Chanc. v. 636) that Lord Thurlow was the chancellor who so acted.

[2] Welsby's Judges, 263; Birch's Lives, 148; Collins's Peerage, v. 234.

legitimate advance;—next, on being dismissed from the latter, he accepted the insignificant office of cursitor baron of the Exchequer; and lastly, he was raised to the bench of that court as an actual judicial baron. But what was most remarkable was that he retained the place of City recorder after his appointment to his three other posts, and held it till his death;—a plurality which was either forced upon him by the general impression of his superior abilities,—of which there is no evidence,—or was the effect of a greediness of gain, which blinded him to the impropriety of filling positions in some measure incompatible with each other, and certainly with respect to his last promotion differing greatly in their dignity and degree.

William Thomson was the second son of a barrister and bencher of the Middle Temple of the same names, and, with his elder brother Stephen, was admitted into that society in 1688, but not called to the bar till 1698. In 1708 he was returned to parliament as member for Orford in Suffolk, and to him the Whig party entrusted the enforcement of the third charge in their suicidal impeachment of Dr. Sacheverell. He performed this duty with sufficient point, and so satisfactorily to the promoters of the prosecution that he was employed as junior counsel in the proceedings against the rioters, whom the popular disgust had inflamed to the commission of unjustifiable outrages. The consequence was that he lost his seat in the new parliament of 1710, and that a Tory house voted his petition against the candidate returned instead of him to be frivolous and vexatious. In the following parliament of February 1714, called within a few months before the death of Queen Anne, he was elected for Ipswich, which he continued to represent till he was raised to the bench; and on March 3 of that year he was chosen recorder of the city of London; but so nearly were parties divided that it was only by the casting vote of the lord mayor that he succeeded. In

this character it was his fortune to read the addresses of congratulation to both George I. and George II. On the former occasion probably he was knighted, as he is designated with the title shortly after, when acting as one of the managers on the trial of the Earl of Wintoun for the part taken by him in the Rebellion of 1715.[1]

In February 1717 he succeeded Sir John Fortescue-Aland as solicitor-general; but by his jealous and grasping disposition he lost it in three years, and was expelled from the office with disgrace. In the numerous charters of incorporation granted to the joint-stock companies by which the public were then tempted and tricked, the attorney-general Lechmere had benefited by the fees more largely than himself. Sir William, envious of his colleague's advantages, had the folly to denounce him as guilty of corruption before the committee appointed to enquire into all those companies; alleging that he had not only pocketed large bribes, but had permitted public biddings for charters at his chambers as at an auction. Lechmere of course could not allow such an imputation to remain upon him; a searching investigation was made into its truth; and the result was a unanimous vote that the charges were malicious, false, scandalous and utterly groundless. For this disgraceful slander Sir William was dismissed on March 17, 1720; and the office of solicitor-general was given to Sir Philip Yorke, a man who became the ornament of his time and the pride of his court. Sir William, in no ways abashed, still kept his seat in parliament and his place as recorder; and in 1724 so far recovered his position as to obtain the grant of an annuity of 1200*l.*, and a patent of precedence in all courts after the attorney and solicitor-general.[2]

Not yet content, he accepted on June 27, 1726, the inferior

[1] State Trials, xv. 157, 438, 595, 645, 683, 869; City List of Recorders.

[2] Townsend's House of Commons, i. 451; Pat. 10 Geo. I. p. 2.

place of cursitor baron of the Exchequer, vacant by the death of Sir William Simpson, who had held it during three reigns. This office he occupied for the remainder of the reign of George I., and for two years in that of George II., still acting as recorder by himself or his deputies, Serjeants Raby and Urling. On November 27, 1729, he was, by a very unusual step, advanced from the executive office of cursitor baron, to that of a judicial baron, having been on the previous day made a serjeant for the purpose, and his present patent differing from the former by designating his new appointment as that of baron "of the coife." Even with this honourable office of one of the twelve judges of England, he would not deprive himself of the profits of the inconsistent place of recorder: but after sitting in the Exchequer for nearly ten years, he died in the possession of both, on October 27, 1739, at Bath.[1] By his will he left a ring to all the aldermen of London, and his portrait to the corporation. He married Julia, daughter of Sir Christopher Conyers of Horden in Durham, and widow of Sir William Blackett of Wallington in Northumberland, Bart.[2]

## VERNEY, JOHN.

M. R. 1738.

THE Honourable John Verney was the youngest of the four sons of George fourth Lord Willoughby de Broke, by Margaret, daughter and heir of Sir John Heath of Brasted in Kent, the son of Sir Robert, the persecuted judge in the reign of Charles I. He studied the law at the Middle Temple, where he was entered in 1715, and called to the bar in 1721. He represented Downton in the last parliament of George I. and in the first of George II.; and while a

[1] Pat. 12 Geo. I. p. 2; Pat. 3 Geo. II. p. 1; Gent. Mag. ix. 554.

[2] Wotton's Baronet. iii. 552. For many of these facts I have to repeat my thanks to my indefatigable friend W. Durrant Cooper, Esq. F.S.A.

member of the former he was made a judge of South Wales. George II. selected him to be one of his counsel, and in 1729 appointed him attorney-general to Queen Caroline. His next promotion was in December 1733 as chief-justice of Chester in the place of John Willes, Esq.; and on the death of Sir Joseph Jekyll he succeeded as master of the Rolls on October 9, 1738. After enjoying this comfortable judicial seat not quite three years, he died on August 5, 1741.

He married Abigail, only daughter of Edward Harley of Eyewood in Herefordshire, and sister of the first Earl of Oxford; and by her he left a son, John Peyto Verney, who, upon the death of his uncles without issue, became sixth Lord Willoughby de Broke.[1]

## WILLES, JOHN.

Ch. C. P. 1737. Com. G. S. 1756.

*See* under the Reign of George III.

## WILMOT, JOHN EARDLEY.

Just. K. B. 1755. Com. G. S. 1756.

*See* under the Reign of George III.

## WRIGHT, MARTIN.

B. E. 1739. Just. K. B. 1740.

Of Sir Martin Wright's lineage I have no information; but believe him to have been of a Hampshire family, his possessions and his purchases being principally in that county. He was born on March 24, 1691, and was the younger brother of Thomas Wright, Esq., whose daughter Elizabeth married Sir John Guise of Highnam, Bart. Very little is told of him beyond his legal education at the Inner Temple, which he entered in November 1709, and his call to the bar in June 1718.

[1] Collins's Peerage, iv. 71, vi. 701; Pat. 12 Geo. II. p. 1, n. 42.

He published in 1730 "An Introduction to the Law of Tenures," which went through many editions, and no doubt assisted his elevation to the bench of the Exchequer in November 1739 in the place of Baron Sir William Thomson, and his removal to the Court of King's Bench on November 28, 1740, in the place of Sir Edmund Probyn. He was not knighted till November 23, 1745, when he went up with the judges' address on the rebellion; and after being nearly sixteen years on the bench he resigned his seat on February 1, 1755. He lived more than twelve years after, and died at Fulham on September 26, 1767, leaving by his wife, Elizabeth, one of the two daughters and co-heirs of Hugh Willoughby, Esq., M.D., of Barton Stacey in Hampshire, two sons and two daughters, who all died without issue. The youngest son, an eccentric character, on his decease in 1814, at the age of eighty-seven, bequeathed his estates amounting to 3,000*l.* a year to Lady Frances Wilson, the wife of Sir Henry Wilson of Chelsea Park, with whom he was totally unacquainted, but had seen and admired her at the opera nearly twenty years before, when she was Lady Frances Bruce.[1]

## YORKE, PHILIP, Earl of Hardwicke.

Ch. K. B. 1733. Lord Chanc. 1737.

The character of this great man and distinguished judge has had scanty justice done to it by his biographers. Living when party spirit ran extravagantly high, it is not surprising that the estimate formed of it by the opposing factions should be as wide apart as their political opinions; but even his greatest vituperators, while criticising, and perhaps condemning, his proceedings as a statesman, are forced to acknowledge his transcendent abilities as a magistrate. It

[1] Strange, 1148; Watt's Bibliog. Brit.; Gent. Mag. ix. 606, x. 571, xv. 612, xxxvii. 524, lxxxiv. 308.

is, however, curious to see two of his opponents differ widely in their remarks. Lord Chesterfield says that Lord Hardwicke "was never in the least suspected of any kind of corruption;" that "he was an agreeable eloquent speaker in parliament;" and that "he was a cheerful instructive companion, humane in his nature, decent in his manners, and unstained by any vice (except avarice)." Horace Walpole, to whom he was a subject of personal aversion, on the contrary insinuates the reverse of all this, speaking of "the extent of his baseness;" and asserting that "in the House of Lords he was laughed at—in the cabinet despised:" thus carrying his inveteracy to so absurd a degree that no reliance can be placed on anything that he relates. The best memoir is the one in Mr. Welsby's collection; but both that and Lord Campbell's give too much weight to the "sketch" published by Mr. Cooksey in 1791, and to the gossiping and malicious stories contained in the letter introduced in the sketch from an anonymous correspondent, who vents the most virulent abuse, and even commits the gross extravagance of charging Lord Hardwicke with causing his nephew to be sent on a fatal expedition, in order that by his death he might succeed to his property—in short, accusing him of a conspiracy to murder. Lord Campbell, though of the same party and approving his political principles, and of the same profession and cognisant of the veneration with which his memory is regarded by its members, seems to grudge the encomiums he is obliged to bestow, attenuating them by so many qualifications, that the reader cannot but regret that his lordship did not recollect his own remark, that "historians and biographers make sad mistakes when they begin to assign motives—which however they often do as peremptorily as if they lived in familiar confidence with those whose actions they narrate." A subsequent Life has been published by Mr. George Harris in three volumes, which is written

in so lengthy and uninteresting a style, and interlarded with so much extraneous matter and so many insignificant details, that it has not met with the favour to which it would have otherwise been entitled, for the valuable materials and authentic documents which the author has had an opportunity of furnishing.

Simon Yorke, the grandfather of Lord Hardwicke (descended, according to the inscription on his grave in St. James's Church, Dover, from the ancient family of Yorke long settled in North Wiltshire), left his native county at the time of the Great Rebellion and established himself as a merchant at Dover. By the council books of that corporation, it appears that at the Restoration he was *restored* to the office of common councilman. At his death in 1682 he left several sons, one of whom, Philip, pursued the profession of the law with great success in the same town, where he filled the office of town clerk, and occupied one of the handsomest houses, the antique beauty and great extent of which are remembered by some of its present inhabitants. This Philip married Elizabeth, daughter and heir of Richard Gibbon of Dover, and widow of her cousin Edward Gibbon of Westcliffe near that town, whose namesake and descendant became illustrious in literature as the historian of the "Decline and Fall of the Roman Empire." Of the numerous family he had by her only three survived him, one son, the subject of the present sketch, and two daughters. That his death did not occur till June 1721, is a pregnant refutation of the report that he was distressed in his circumstances and died in despair; inasmuch as his son had long before that date gained an eminent position at the bar, had for the seven previous years been a member of parliament, and for more than a year had held the prominent and profitable post of solicitor-general. This report originated as far as I can trace, for no allusion is made to the alleged indigence of the

father by any of the son's contemporaries, in the anonymous letter before mentioned, which Mr. Cooksey thought fit to publish, although containing a variety of frivolous details not tending, as the writer candidly professes, "to flatter his lordship's memory." The tale, without any better authority, has been subsequently repeated; and Lord Campbell perpetually harps upon the penury under which the chancellor commenced his career. Its improbability is apparent from the fact that several estates belonging to the father have remained in the family till the present generation; and it is contrary to all likelihood that a prosperous son who inscribed a tablet in the church to the memory of his parents at the death of his mother in 1727, concluding with the expressive line

"Quos amor in vitâ conjunxit, non ipsa mors divisit,"

would suffer poverty to overtake them during their lives. This monument still exists in old St. James's Church, Dover.

Philip Yorke, the son, was born at Dover on December 1, 1690; and received his education at a school of considerable reputation at Bethnal Green, kept by Mr. Samuel Morland, a man of great classical attainments. He continued there till Christmas 1706, when he was sixteen years of age, having by his diligence, his talents and general behaviour, earned the affection of his master, who for some years afterwards kept up a Latin correspondence with him. Two of Mr. Morland's letters are preserved: the first is dated in February, 1706–7, written soon after Yorke left the school, in which the proud tutor not only predicts his pupil's future celebrity, but declares that he reputes *that* the happiest day of his life on which he was entrusted with his education. The other is dated October 1708, and addressed to his pupil at Mr. Salkeld's in Brooke Street, Holborn; to

whom his father had sent him for his elementary legal studies. Mr. Salkeld was not, as some biographers have stated, the learned serjeant of that name (a natural mistake, as he was then in full practice, and lived for several years after, and as his well-known Reports were first published under the care of Lord Hardwicke); but he was the serjeant's brother, and an eminent attorney, who must have held a high rank among his brethren, since in his office Viscount Jocelyn, lord chancellor of Ireland, Sir Thomas Parker, lord chief baron, and Sir John Strange, master of the Rolls, besides Lord Hardwicke, the most eminent of all, were at different times seated as pupils.

That Mr. Salkeld was Mr. Yorke's London agent, or that he received the son as his "gratis clerk," there is no other authority than the gossip of Mr. Cooksey's anonymous correspondent. The improbability, if not the falsehood, of both stories, is evident from the fact that Mr. Yorke, two months before his son left school, commissioned a relative in London to find an eminent attorney with whom to place his son; which would have been quite unnecessary had he had any previous connexion with Mr. Salkeld: and in the same letter, so far from alluding to his supposed poverty or intimating a wish to avoid the expense, he desires his friend "to learn the termes on which he may be disposed of." Neither does it appear at all, though generally asserted, that the son was intended for his father's branch of the profession; but on the contrary, the expression used by his father in the above letter is that he is "desirous to place him with an eminent attorney in the Common Pleas *for three years*, that by the practis of the lawe he may be better qualified for the study of it." This term was not a sufficient service then, any more than it is now, to enable a clerk to be admitted an attorney; and the father's expression seems clearly to show his inclination to bring his son up to the bar. Jeremy

Bentham also, in a letter to Mr. Cooksey, states expressly that the father "*intending him for the bar*, very judiciously placed him with Mr. Salkeld;"[1] and that he did so intend is confirmed by the fact that before the young student had been two years with Mr. Salkeld, he was on November 29, 1708, actually admitted a member of the Middle Temple.

The anecdote told of Mrs. Salkeld sending him on family errands, and to fetch in little necessaries from the markets; and of the ingenious mode he took for putting a stop to the practice by charging Mr. Salkeld with coach-hire for the carriage, has little bearing on the question. Besides the recollection that youth was not so tenacious and dignified as in the present age, it proves nothing more than that the lady took too great advantage of the extreme good-nature, for which the young pupil was no doubt then as famous as he was in after life.

Soon after his admission he left Mr. Salkeld's and took chambers in Pump Court in the Temple, where he not only pursued with assiduity his legal studies, attending the courts, and noting cases, but employed his leisure hours in polite literature and philosophical inquiries. There he composed, there is little reason to doubt though it has been disputed, the letter which appeared in the "Spectator" of April 28, 1712, under the signature Philip Homebred, ridiculing the common practice of sending unfledged youth on foreign travel; the only literary, not legal, performance on which he ever ventured. About this time he was introduced to Lord Macclesfield, lord chief justice of the King's Bench, either (for the narrations vary) by Mr. Salkeld, or Mr. George Parker, the chief justice's son, or by Mr. Thomas Parker, the chief justice's nephew. The latter was a clerk in Mr. Salkeld's office, but probably not at the same time, as he was five years Yorke's junior; so that if he was the introducer,

[1] Harris's Lord Hardwicke, i. 27, 29; Cooksey, 54, 72.

it would appear that Yorke frequented Mr. Salkeld's office after his admission to the Middle Temple, and also was a brother-student with Parker in that society. Whatever was the object of the introduction, it led to an intimacy most beneficial to the young man when he went to the bar. It turned out, however, very injurious to the peer, as, it is asserted, the favour he showed to Yorke in the court of Chancery excited the jealousy of some of his seniors so much that it gave additional inveteracy to the earl's prosecution.

Having passed through the customary period of study, Yorke was called to the bar on May 6, 1715, and almost immediately obtained considerable employment. That for this success he was partly indebted to his legal connexion, and partly to the influence of his patron, there can be no doubt; but neither would have availed him had he not shown himself competent to improve the opportunities thus put in his way. His superiority of talent was soon recognised; and that it procured him a large accession of business is proved by the anecdote related in the memoir of Sir Littleton Powys. Other and better testimonies of the estimation in which he was regarded are to be found in the two following facts. Before he had been four years at the bar he was sent down by the Government to supply a vacancy in the borough of Lewes, and was returned its member on May 2, 1719. And, secondly, his marriage later in the same month with Margaret, the daughter of Mr. Charles Cocks of Worcester by the sister of Lord Somers, and the young widow of Mr. William Lygon of Maddresfield. This lady he had met at her uncle's, Sir Joseph Jekyll, whose strong recommendation of him and his future prospects overcame the objections of the father to a suitor who had no present means of making a settlement.

He kept up constant intercourse with his family and friends at Dover, and was appointed recorder or steward of

that corporation. Nothing appears in this intercourse that gives the slightest insinuation of the imputed penury of his father. The correspondence to which Mr. Harris has had access contains the strongest proofs of Yorke's affection for both his parents, and of his kindness to his sister, and liberality to her and her unfortunate husband, whose indigence was caused by his dissipation and misconduct. It also affords ample evidence that throughout Yorke's career in life he never deserted the friends of his youth, but did what he could to advance them: thus manifestly showing the malice of Mr. Cooksey's anonymous correspondent in inventing tales of a contrary tendency; which it is to be regretted have been too easily repeated by Lord Campbell, without sufficient inquiry into their truth. His father lived to see the first fruits of his son's success, and died in June 1721, fifteen months after his first promotion.

That promotion took place in less than two years after his marriage, when he was selected as the successor of Sir William Thomson in the office of solicitor-general, to which he was appointed on March 22, 1720, being knighted in the following month; and soon after becoming bencher, treasurer, and autumn reader of the Middle Temple. On the retirement of Attorney-General Lechmere two months afterwards, Sir Philip was too wise to claim the succession to the office, but prudently gave way to Sir Robert Raymond, who had been solicitor-general at the beginning of the reign. To this circumstance it is probable that he alludes when in a letter to Baron Comyns about 1735 he speaks of himself as one "who knows experimentally what it is to decline a higher station, and be content with a lower."[1] But on Sir Robert's promotion to the bench four years afterwards, he felt himself sufficiently experienced to undertake the vacant office, and he accordingly became attorney-general on January 31,

[1] Harris, i. 308.

1724. Thus within nine years after his call to the bar, and before he had attained thirty-four years of age, he had outstripped all his colleagues and become the leader in Westminster Hall. If he had been a scion of nobility, or surrounded with the highest connexions, it would be idle to suppose that he could have attained this eminence by means of mere patronage. Had it been so, as recent insinuations would have us believe, there would have been some evidence in contemporary writers expressive of the dissatisfaction of the bar at this last promotion. Whatever misgiving and jealousy might have been occasioned by the first advance of so young a man, the ability with which he performed the duties devolving upon him, his unassuming bearing, with the general appreciation of his merits, made the latter promotion universally acceptable.

He filled this office for above ten years, four under George I. and six under George II.; and his excellence both as an advocate and as a public prosecutor was acknowledged as well by his political opponents as his friends. The first is evidenced by the frequent recurrence of his name in the Reports of the time, and by the anxiety expressed in many private letters from parties desirous of his aid. The last is proved by his speeches, remarkable at the same time for their humanity and temperance, and for their force and effect; and is unmistakably confirmed by the applause of both sides of the House of Commons on an accidental allusion by him to his conduct while in office. A magistrate against whom he was engaged as counsel thought proper to challenge him, and was obliged to ask his pardon in open court in order to prevent a criminal information.[1] His general success is manifested by his being enabled to purchase in 1725 the manor and estate of Hardwicke in Gloucestershire, which cost him about 24,000*l.*

[1] Gent. Mag. i. 29.

He continued in parliament from his first election for Lewes in 1719 till he was promoted to the upper house in 1733, being returned for Seaford in the two intervening parliaments of 1720 and 1727. Each of these seats he owed to the patronage of the Duke of Newcastle, who from the first saw his merit and to the last never deserted him. With whatever disregard the character of his grace may be treated, he cannot be refused the credit of discrimination in this early recognition of the talents of a young man who became one of the most efficient supports of his administration. Sir Philip's reported speeches as a commoner exhibit that power of argument and lucid arrangement for which he was always remarkable, and fully justify the respect and deference which were paid to his opinion in the house. To this feeling on the part of his senatorial colleagues may be attributed his being excused from taking any part in the impeachment of the earl of Macclesfield, on account of the close friendship that existed between them. That he took no more steps in the Earl's behalf than by speeches in his place in parliament, has been unjustly made the ground of animadversion, without a suggestion of what more he could have done, and without considering that, being a member of the House of Commons, he could not take a professional part in the defence of one whom that house had chosen to prosecute. It is rather laughable that, more than a century after the earl's death, he should be pitied for the desertion of a friend—of which he himself was never conscious—with whom he kept up a cordial intercourse from the time of his trial till his death, and to whom in his last letter he describes himself as his "most *affectionate* and most faithful humble servant."[1]

In 1727 he published anonymously a work, which has been erroneously fathered on Sir Joseph Jekyll, entitled "A Discourse on the Judicial Authority belonging to the Master

[1] Harris, i. 179, 222.

of the Rolls in the High Court of Chancery." It was apparently in answer to "The History of the Chancery," published the year before by Mr. Samuel Burroughs, whom Lord Chancellor King rewarded with a mastership in Chancery. Sir Philip's book evinced great learning and research, and on being answered by Burroughs, with the assistance of Warburton, afterwards bishop of Gloucester, in a work called "The Legal Judicature in Chancery Stated," was republished in a second edition with a preface containing an elaborate reply to all the opposing arguments.[1]

Lord Chief Justice Raymond died on March 19, 1733, and his place in the court of King's Bench remained vacant for nearly eight months, although Sir Philip Yorke was regarded as the only competent successor, and although the Duke of Somerset was assured by the Duke of Newcastle that it was at his own choice to succeed.[2] It is not unlikely that there was some prudent hesitation on his own part to leave the profitable position of attorney-general, for he says to the Duke of Somerset, "I am doubtful how suitable the office of chief justice of the King's Bench may be to my circumstances at this time of life, and with a numerous family." Some time probably elapsed in overcoming that hesitation, and the rest may be well accounted for in arranging the means of doing so. It was at last effected by increasing the salary of 2000*l.* to 4000*l.* a year, which Sir Philip insisted should not be for himself alone, but for his successors also. He was also to be raised to the peerage. He was accordingly appointed chief justice on October 31, 1733, and created Lord Hardwicke on November 23.

Much credit cannot be placed on the statement made by some that he aimed at the Seals, but gave way to his friend the Solicitor-General Talbot; and still less to the assertion made by others, that they were actually offered to him and

[1] Harris, i. 195. [2] Ibid. i. 130.

declined. In the first place, Lord Chancellor King did not resign till a month after Lord Hardwicke had taken his seat as chief-justice, and though he had a fit of illness in August, there was no thought of his resignation at the time of Lord Raymond's death in the previous March: and secondly, it is not likely that a man who felt hesitation on account of his large family to accept a permanent place, should be willing to risk the chances attending one from which he was liable to be removed in a year or a month by political caprice. The letter on which Mr. Harris founds his assertion that Lord Hardwicke declined the Seals has a more natural reference to his not accepting the attorney-generalship on Lechmere's resignation, when his patron the Earl of Macclesfield had the nomination. In 1734 he was elected recorder of Gloucester, and continued to hold the office till his death, when he was succeeded in it by his son Charles Yorke.

During the three years and a half that he presided over the King's Bench he more than satisfied the expectations of those who had formed the most favourable opinion of him. His legal knowledge, his habitual caution, his firmness and discrimination, gave weight to his decisions, and excited unquestioned admiration from even those to whom they were adverse. In the House of Lords also he shone with equal brilliancy. In the speeches he delivered there was so much solidity, argument, and eloquence, that his brother peers welcomed him as an accomplished colleague. With this superiority both as a judge and as a senator, his advance to a higher dignity could not but be anticipated. The opportunity soon occurred. Lord Talbot died after a short and brilliant career; and on the very day of the event, the Great Seal was pressed upon Lord Hardwicke. He hesitated to accept the precarious honour, and to give up a permanent position, to the duties of which he was accustomed, and in which he had the opportunity of providing for his family by the

expected falling in of a valuable office. This difficulty being soon overcome by giving him an equivalent in a grant in reversion to his eldest son of a tellership of the Exchequer, he undertook the office and was constituted lord chancellor on February 21, 1737. Horace Walpole tells us that Sir Robert Walpole, "finding it difficult to prevail upon Lord Hardwicke to quit a place for life for the higher but more precarious dignity of chancellor, worked upon his jealousy, and said that "if he persisted in refusing the Seals he must offer them to Fazakerley." "Fazakerley!" exclaimed Lord Hardwicke; "impossible: he is certainly a Tory, perhaps a Jacobite." "It's all very true," replied Sir Robert, taking out his watch; "but if by one o'clock you do not accept my offer, Fazakerley by two becomes lord keeper of the Great Seal, and *one of the staunchest Whigs in all England.*'" Whatever truth there may be in the joke, the story proves that his lordship hesitated to make the change.

For the next four months Lord Hardwicke held both the offices of lord chancellor and lord chief-justice, and occasionally sat in the King's Bench till June 8, when the appointment of Sir William Lee to the latter court took place.

He retained the Great Seal for nearly twenty years of his life, and rendered his name illustrious both as a statesman and a judge. The acts and policy of the government, for which as a member of it he was responsible, and which he moderated by his prudent counsel and supported by his powerful eloquence, belong more to the history of the country than to the biography of the man. But under Sir Robert Walpole's ministry, and those that succeeded it, he still maintained his influence, accommodating the personal disputes and feuds in the cabinet, and looked up to with respect and deference by all parties in the senate. He seems to have excited the animosity of no one except Horace Walpole, who, for some cause or other, takes every opportunity to vilify

him by putting false constructions on his actions and false colouring to his opinions. For his character as a judge, whether estimated by his decisions, or by the arguments by which he supported them, or by the principles on which they were founded, or, to take a lower standard, by the unadorned eloquence in which they were delivered, we have only to refer to the satisfaction they gave to his contemporaries, to the deference with which they are still always quoted, and to the veneration with which his very name is regarded, even at this distance of time, by the ablest practisers of the law.

Lord Hardwicke's entrance into the chancellorship was anything but auspicious. He at once was made to experience the disagreeables of office, by being forced to enter into the personal disputes of the royal family. He was commanded by the king on the very day of his appointment to carry an unwelcome message to the Prince of Wales; the sting of which however he managed to make less poignant; and in the future progress of the quarrel, harsh on one side, and foolish and insolent on the other, he exerted himself as much as possible to effect a reconciliation.

In the frequent absences of the king from England, Lord Hardwicke was always left as one of the lords justices; and with the Duke of Newcastle and his brother, after Sir Robert Walpole's resignation, had the principal management of the affairs of the kingdom. During one of these intervals commenced the Rebellion of 1745, which was treated at first with apathy and indifference, and as of trifling moment, till the success of the young Pretender at Preston Pans and his march into England roused the country from its lethargy, and led to the retreat of the rebel army and its subsequent defeat at Culloden. In the trials of the lords engaged in the conspiracy, Lord Hardwicke acted as lord high steward; conducting them with dignity and firmness; and, though some writers have considered his address to Lord Lovat as

unnecessarily harsh and personal, it should not be forgotten that the occurrence of a second rebellion so soon after that of 1715 required a more solemn and circumstantial exposition of its enormity, while the vile character and disgraceful conduct of the titled criminal justified any severity of remark.

In July 1749 he was unanimously elected high steward of the University of Cambridge; an honour for which he had reason to be proud, conferred as it was on one who, without the claim of an academical education, had acquired the reputation of high classical attainments, in addition to the eminent intellectual powers with which he was endowed. After having several times declined an advance in the peerage, though pressed upon him by ministers, he was at last induced to accept it, and on April 2, 1754, was created Earl of Hardwicke and Viscount Royston, dignities which were universally recognised as fitting rewards for his long and valuable services. For two years and seven months after this elevation he continued to execute the duties of his high office, and to be one of the most active and efficient advisers in the administration. But when the Duke of Newcastle was forced to succumb to the opposition and give way to the Duke of Devonshire as first lord of the Treasury, Lord Hardwicke took the opportunity to retire with his friend, and notwithstanding all the efforts of the new ministry to retain him, on November 19, 1756, resigned the Great Seal, after holding it, according to his own computation, "nineteen years, eight months, and sixteen days." Only two previous holders of the Seal, whether as keeper or chancellor, had exceeded this length of service,—Sir Nicholas Bacon, who was keeper for twenty years, and Sir Thomas Egerton, Lord Ellesmere, who retained the Seal as keeper and chancellor twenty years and ten months; and only one subsequent lord chancellor, John Lord Eldon, whose occupation of office extended to twenty-four years, ten months and twenty-four days, with an interval of about a year.

On the return of the Duke of Newcastle to power and his junction with Mr. Pitt in the following June, Lord Hardwicke again refused the Great Seal, but aided the ministerial counsels in the cabinet; and it is a curious circumstance that he prepared all the speeches from the throne till the year 1762, as he had previously done while in office. On Lord Bute's accession to the ministry, Lord Hardwicke, though offered the Privy Seal, retired altogether into private life. His health began to decline in October 1763, and gradually sinking he died on March 6, 1764, at his house in Grosvenor Square in the seventy-fourth year of his age. He was buried in the church of Wimpole in Cambridgeshire, where he had purchased in 1740 the large estate of the Earl of Oxford, the mansion on which he had greatly improved. A handsome monument to him and his lady by Scheemakers adorns the church.

Lord Chesterfield, his opponent in politics, acknowledges that he was "unstained by any vice (except avarice);" but brings no proof to sustain the exception; neither do we find anything in his career that substantiates it. That he was careful of his gains, and neither profuse nor wasteful in his expenditure, are rather proofs of his prudence as a man who has first to establish himself in the world, and next, to support the prominent position to which he was called at an early period. That he kept up the dignity of the various stations which he filled, that he showed no penuriousness in the education of his seven children, that he was liberal in his charities, and, above all, that he declined the offer made to him of a pension on his retirement, leave a very contrary impression.

It is not too much to say that the reputation gained and deserved by Lord Hardwicke as a lawyer and a judge, was not exceeded by any previous holder of the Great Seal, and

has never been equalled, except perhaps in one instance, by any of his successors. The justice of his decisions no one has ventured to impugn; all have been satisfied with the equitable principles they established, and have admired the reasoning by which he supported them. That only three of those pronounced in the course of nearly twenty years were the subject of appeal, and that none of them were reversed either during or after the termination of his chancellorship, must, notwithstanding the depreciating remarks of Lord Campbell, be regarded at the present time as a substantial proof of the excellence of his decrees, as it was in his own time acknowledged by the president Montesquieu to be "un éloge au dessus de toute la flatterie."[1] One of his contemporaries who practised under him and became the ablest common law judge that ever sat upon the bench, Lord Mansfield, said that "when his lordship pronounced his decrees, Wisdom herself might be supposed to speak." Even Horace Walpole, whose personal antipathy is apparent in all he writes of him, does not deny his claims in this respect; and the depreciating characteristics, which he malignantly seeks to attach to him, need no other refutation than the contradictions which the writer himself unconsciously produces.

Every contemporary account shows how great was the influence he exercised both in the House of Commons and in the House of Lords. His ascendency in the cabinet is manifest by the deference paid to his opinion by Sir Robert Walpole and the Duke of Newcastle, and by the respect and affection with which he was regarded by his sovereign. Some critics have objected to him that he was not a law reformer, seeming to consider that it is incumbent on every lord chancellor to

[1] Harris, ii. 398.

distinguish his season of power by some legislative alteration in the existing laws; while at the same time they complain of the onerous multiplicity and the absorbing nature of his various avocations. Lord Hardwicke probably thought that he was better employed and doing more essential good to his country by establishing that system of equitable jurisprudence, of which he has the renown of being the framer, than in attempting to remove some slight defects which might encumber the proceedings. He no doubt purposely refrained from the well-grounded apprehension that the variations which he might substitute would introduce greater inconveniences than those he professed to remedy; reflecting, with Hamlet, that it was better to

> "bear those ills we have,
> Than fly to others that we know not of."

His justification has been made apparent by the many abortive attempts at amelioration that have recently seen the light. But though he abstained from interfering in these minor grievances, he devoted his attention as a legislator to those of more importance. By him was the bill for abolishing the feudal powers and the separate jurisdiction in Scotland framed. He succeeded in passing an act for the naturalisation of the Jews, with a view to remove civil disabilities on account of faith; which, however, popular prejudice induced parliament to repeal in the following year. And he put an end to the miseries to which every English family was liable, by introducing the act for the prevention of clandestine marriages,—a measure for which all parents,—ay, and all youths, masculine and feminine—have reason to bless his name.

The beauty of his person, the urbanity of his manners, and the peculiar sweetness of his voice, enhanced the admi-

ration which could not fail to be excited by his excellence as a judge. His popularity among those who practised under him could not be exceeded, and few would deny the truth of the expression of one of them, that when he quitted his high station "he left a name that will be mentioned with honour as long as Westminster Hall lasts."[1] The unfortunate poet, Richard Savage, in his "character" of Judge Page, thus alludes to him:—

> "Were all, like Yorke, of delicate address,
> Strength to discern, and sweetness to express,
> Learn'd, just, polite, born ev'ry heart to gain,
> Like Cummins mild, like Fortescue humane,
> All-eloquent of truth, divinely known,
> So deep, so clear, all Science is his own."

The Countess of Hardwicke, after a happy union of forty-two years, died before her husband, leaving five sons and two daughters. The eldest son, Philip, succeeded his father and died without male issue; but by his marriage with Lady Jemima Campbell, grand-daughter of Henry Grey, first Duke of Kent, was the father of two daughters, who by special limitations became successively Baronesses Lucas and Countesses De Grey, titles which are now united with the earldom of Ripon.

The chancellor's second son, Charles, will be noticed as himself ascending to the same station, in a subsequent page. His son became the third Earl of Hardwicke, and his descendants still inherit that title.

The third son, Joseph, was eminent as a soldier and diplomatist, and in 1788 was raised to the barony of Dover, which at his death in 1792 became extinct.

The fourth son, John, was clerk of the Crown, F.R.S., and M.P. for Ryegate: and the fifth son, James, enjoyed

[1] Wynne's Serjeant at Law, 103.

in succession the bishoprics of St. David's, Gloucester, and Ely.

Elizabeth, the elder of the chancellor's daughters, married Admiral Lord Anson; and Margaret, the younger daughter married Sir Gilbert Heathcote, Bart.; but both died childless.[1]

[1] Cooksey's Sketch; and Lives by Mr. George Harris; and in Welsby's Collection; and in Lord Campbell's Lives of the Chancellors, &c.

# GEORGE III.

Reigned 59 years, 3 months, and 4 days; from October 25, 1760, to January 29, 1820.

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## SURVEY OF THE REIGN.

THOUGH George III. reigned nominally near sixty years, his actual reign terminated nine years earlier. By the decay of his mental powers, a regency became necessary, and from February 5, 1811, George, Prince of Wales (afterwards George IV.), exercised the royal functions as Regent of the United Kingdom till his father's death.

At the commencement of this reign the independence of the judges was still further secured. Although the statute 12 & 13 Will. III. c. 2, s. 3, enacted that their commission should be no longer "Durante bene placito," but "Quamdiu se bene gesserint," yet, by a most extraordinary interpretation, it was decided, at the accession of Queen Anne, that their patents terminated at the demise of the crown: and the practice had been adopted in the two following reigns. The inconvenience arising from this decision, which necessitated a renewal of the patents of all the judges as the first act of a reign in order to prevent a total failure of justice, had been partially remedied by the statute 6 Anne, c. 7, s. 8, which enacted that all officers, including the judges, should act upon their former patents for the space of six months after any demise of the crown, unless sooner removed by the next successor. Now, however, by the express recommendation

of George III., full effect was given to the statute of William, by an act of parliament passed in the first year of his reign, chapter 23, continuing the judges in their office, notwithstanding the demise of the crown, with the enjoyment of their full salaries.

These salaries were augmented by several enactments of this reign. In 1779 (stat. 19 Geo. III. c. 65) 400*l.* a year was added to the salary of each of the puisne judges and barons, and 500*l.* to that of the chief baron. Another act in 1799 (stat. 39 Geo. III., c. 110) made a further advance, and fixed the salaries of

The master of the Rolls at 4000*l.* a year,

The lord chief baron at 4000*l.* a year, and

Each of the puisne judges and barons at 3000*l.* a year.

The same statute also contained a wise provision of adequate allowances on their retirement or superannuation; thus rendering unnecessary the discreditable bargains which had been too frequently made for the purpose of softening the downfall of an inefficient member of the bench. His majesty was empowered to grant an annuity of 4000*l.* for life to a retiring lord chancellor or lord keeper; and the following annuities to the judges on retirement, subject to their having respectively served in one or more of the said offices for fifteen years, or being afflicted with some permanent infirmity: viz.

3000*l.* to the chief justice of the King's Bench;

2500*l.* to the master of the Rolls, the chief justice of the Common Pleas, and the chief baron; and

2000*l.* to each other judge of those courts, or baron of the coif;

which sums were afterwards, in 1813, increased by 800*l.* to the chiefs and the master of the Rolls, and by 600*l.* to the puisne judges and barons (53 Geo. III. c. 153). In 1809 (stat. 49 Geo. III. c. 127) the salary of the lord chief baron

was raised to 5000*l.*; and of the puisne judges and barons to 4000*l.*

The second judge of the King's Bench had besides 40*l.* per annum in respect to his labour and trouble in giving the charge to the grand jury in each term, and in pronouncing judgment on malefactors.

The ancient rule that none but a serjeant can be made a judge had been invariably acted upon; and when the person intended to be promoted to the bench was not previously of that degree, he was always summoned to undergo the necessary ceremony, which could only be performed in term time. In the summer vacation of 1799, however, a vacancy occurred by the death of Mr. Baron Perryn, which, on account of the circuits, it was desirable to fill up immediately; and none of the existing serjeants being thought of for the place, a temporary act of parliament was passed on July 1st (stat. 39 Geo. III. c. 67) enabling the king to issue a writ returnable immediately commanding a barrister to take upon himself the degree of a serjeant; and to appoint such barrister to be a baron of the coif. The gentleman thus favoured was Mr. Alan Chambre, who was accordingly appointed. The expedient was found so beneficial that twelve days after another act was passed (stat. 39 Geo. III. c. 113) with a general power, whenever any new judge was required, to make a serjeant in vacation. The first appointment under the last act was John, Lord Eldon, as successor to Sir James Eyre in the office of chief justice of the Common Pleas, on July 18, 1799.

It was only during the eighteenth century that the puisne judges began to be addressed by the title of "your lordship." In the year-books they are constantly addressed by the title of "Sir;"—"Sir, vous voyez bien," &c. The late Serjeant Hill was, it is believed, the last who persisted in using the ancient fashion. But they are only properly

designated "My lord" when on the bench or on the circuit. The author was in early days officially connected with a committee, of which one of the judges was a member, whom he addressed with the title, "My lord," and "Your lordship." The judge kindly took the author aside, and said to him, "I know you wish to be correct, and that you will therefore excuse my informing you that I am entitled to that address only while on the bench." Being about the same time in correspondence with another judge who was more fond of the title, it cost the author some trouble to avoid expressions which would lead to the use of the words.

The complaints, which had long been made, of the delays in the court of Chancery, were so greatly aggravated by the continued increase of its business, that towards the end of this reign a remedy was attempted by appointing a new judge to assist the chancellor in his labours. An act was accordingly passed in March 1813 (stat. 53 Geo. III. c. 24), empowering the king to appoint a fit person, being a barrister of fifteen years standing, to be an additional judge-assistant to the lord chancellor, to hold during good behaviour. He was to be called vice-chancellor of England; and his decrees, &c. were to be subject to reversal or alteration by appeal to the chancellor. His rank was fixed to be next the master of the Rolls, and his salary was 5000*l.* a year, 2500*l.* of which was to be paid to the Bank of England out of the fees due to the lord chancellor.

The title of lord keeper was entirely disused during this reign; Lord Henley, who held it under George II., being immediately named lord chancellor by George III.; and it has never since been revived. In this long reign there were only eight lord chancellors, two of whom were restored to their office after retiring on a change of ministry. These two were the longest holders, one for the space of thirteen

years, and the other for eighteen. One chancellor sat for fourteen months, and another held the Seal only three days. The remaining four retained the post respectively for six, four, seven, and eight years. For the two years and four months in which there was not a chancellor, the Seal was deposited with three sets of commissioners at different periods of the reign.

During the trials of Earl Ferrers in 1760, and of Warren Hastings, which lasted from February 1788 to April 1795, the court of Chancery, which was at the upper end of Westminster Hall, was obliged to be removed; and it accordingly sat in Lincoln's Inn Hall in term, as well as in the vacation.

## LORD CHANCELLORS.

ROBERT, LORD HENLEY, lord keeper at the death of George II., was made lord chancellor on the accession of George III., who further honoured him by creating him Earl of Northington on May 19, 1764. On his voluntary resignation,

CHARLES, LORD CAMDEN, chief justice of the Common Pleas, succeeded him on July 30, 1766; and after holding the Seal for three years and a half, retired.

THE HONOURABLE CHARLES YORKE, who had been twice attorney-general, received the Seal as lord chancellor on January 17, 1770, but dying suddenly on the 20th it was delivered on the next day to

SIR SIDNEY STAFFORD SMYTHE, B. E.,

HON. HENRY BATHURST, Just. C. P., and

SIR RICHARD ASTON, Just. K. B.,

as lords commissioners. They held it for a year; when one of them,

HON. HENRY BATHURST, created LORD APSLEY, was appointed lord chancellor on January 23, 1771. He suc-

ceeded his father in 1775 as Earl Bathurst; and held the Seal for above seven years; when, on his resignation,

Edward Thurlow, the attorney-general, then created Lord Thurlow, was nominated lord chancellor on June 3, 1778. On the accession of the Coalition Ministry he was removed, and the Seal was placed in the hands of

Alexander, Lord Loughborough, Ch. C. P.,
Sir William Henry Ashhurst, Just. K. B., and
Sir Beaumont Hotham, B. E.,

as lords commissioners on April 9, 1783. They held it during the nine months' existence of that ministry; and on the formation of Mr. Pitt's administration, the Seal was restored to

Edward, Lord Thurlow on December 23, 1783; but after retaining it for upwards of eight years he was again removed, and the Seal again placed in commission on June 15, 1792, with

Sir James Eyre, Ch. B. E.,
Sir William Henry Ashhurst, Just. K. B., and
Sir John Wilson, Just. C. P.,

as lords commissioners. After holding it for above seven months,

Alexander, Lord Loughborough, chief justice of the Common Pleas, was on January 28, 1793, made lord chancellor. He retained the place above eight years during the remainder of Mr. Pitt's first ministry, and on its termination was created Earl of Rosslyn.

John, Lord Eldon, was appointed lord chancellor on April 14, 1801. Resigning on Mr. Pitt's death, the Whig ministry appointed

The Honourable Thomas Erskine, then created Lord Erskine, a counsel with a patent of precedence, lord chancellor on February 7, 1806, a title which he retained for little more than a year; when the ministry being dissolved,

JOHN, LORD ELDON, resumed the Seal on April 1, 1807, and retained it during the remaining thirteen years of the reign.

The usual alterations of the Great Seal were made at the beginning of this reign: but an extraordinary accident happened to it on March 24, 1784. The Lord Chancellor Thurlow's house in Great Ormond Street was on that morning broken into, and the Seal was stolen from a drawer in his private study. It was suspected that the robbery was contrived by the Whig party, then in the extremes of political rage, in order to prevent the dissolution of parliament on the following day; and as a confirmation it was stated that nothing else was taken but the Seal, although there must have been many valuables in the house. It seems very unlikely that any political party should have ventured on so dangerous a manœuvre; but if it was so, the energy of the new minister, Mr. Pitt, at once counteracted it. An order in council was immediately made for a new Great Seal, with certain minute alterations (rendered necessary for the purpose of preventing the old one from being used), to be prepared by the following day; when it was actually produced, and was used for dissolving the parliament on the 25th. That this new Seal was only a temporary one, got up hurriedly for the emergency, is apparent from another order of council made a week after on April 2, for a new Great Seal, which took more than a year to complete—it not being delivered to the lord chancellor till April 15, 1785. The perpetrators of this outrage totally escaped detection.[1]

## MASTERS OF THE ROLLS.

SIR THOMAS CLARKE, after enjoying the office for more than six years in the last reign, held it for four years in this; when he died, and

[1] Welsby's Judges, 508; Lord Campbell's Chancellors. v. 563.

Sir Thomas Sewell, one of the king's counsel, was appointed on December 4, 1764. He retained it nearly twenty years, and on his death

Sir Lloyd Kenyon, the attorney-general, became his successor on March 30, 1784. On being appointed four years afterwards lord chief justice of the King's Bench,

Sir Richard Pepper Arden, the attorney-general, was selected on June 4, 1788, to fill the office. He was removed to the chief justiceship of the Common Pleas after sitting at the Rolls for nearly thirteen years, and

Sir William Grant, the solicitor-general, was appointed on May 27, 1801. He filled the office for above sixteen years and then resigned.

Sir Thomas Plumer, the vice-chancellor, received the appointment on January 6, 1818; and held it at the death of George III.

## Vice-Chancellors of England.

Sir Thomas Plumer, then attorney-general, was the first appointed vice-chancellor of England under the statute 53 Geo. III., c. 24, on April 14, 1813. On the resignation of Sir William Grant he was made master of the Rolls; and

Sir John Leach, a king's counsel, was appointed vice-chancellor on January 13, 1818, and remained so at the end of the reign.

## Masters in Chancery.

| | | | | | |
|---|---|---|---|---|---|
| Sir Thomas Clarke, M.R. | - | - | - | 1 to 5 | Geo. III. |
| Thomas Bennett | - | - | - | 1 to 4 | — |
| Samuel Burroughs | - | - | - | 1 to 2 | — |
| William Spicer - | - | - | - | 1 | — |
| Richard Edwards | - | - | - | 1 to 7 | — |
| Henry Montague | - | - | - | 1 to 6 | — |

| | | |
|---|---|---|
| Thomas Lane | 1 to 13 Geo. III. | |
| Peter Holford | 1 to 44 | — |
| Thomas Harris | 1 to 18 | — |
| Peter Davall, A. G. | 1 to 3 | — |
| Peter Bonner | 1 to 5 | — |
| John Browning | 1 to 20 | — |
| Thomas Anguish, A. G. 1763–1786 | 1 to 26 | — |
| William Graves | 2 to 41 | — |
| Samuel Pechell | 3 to 22 | — |
| John Eames | 4 to 35 | — |
| Sir Thomas Sewell, M. R. | 5 to 24 | — |
| Edward Montagu | 5 to 36 | — |
| Thomas Cuddon | 6 to 16 | — |
| Robert Pratt | 7 to 15 | — |
| Edward Leeds | 13 to 43 | — |
| William Weller Pepys | 15 to 47 | — |
| John Hett | 16 to 31 | — |
| Francis Ord | 18 to 50 | — |
| Robert Bicknell | 20 to 21 | — |
| John Wilmot | 21 to 44 | — |
| Alexander Thomson, A. G. 1786–1787 (afterwards lord chief baron) | 22 to 27 | — |
| Sir Lloyd Kenyon, M. R. | 24 to 28 | — |
| Alexander Popham | 26 to 49 | — |
| Thomas Walker, A. G. | 27 to 42 | — |
| Sir Richard Pepper Arden, M. R. | 28 to 41 | — |
| John Spranger | 31 to 44 | — |
| Nicholas Smith, A. G. | 35 to 60 | — |
| John Simeon | 36 to 60 | — |
| Sir William Grant, M. R. | 41 to 58 | — |
| John Campbell, A. G. 1819–1820 | 41 to 60 | — |
| Nicholas Ridley | 42 to 45 | — |
| Francis Paul Stratford | 43 to 60 | — |
| John Springett Harvey | 44 to 60 | — |
| Samuel Compton Cox | 44 to 60 | — |
| James Stanley | 44 to 51 | — |
| Robert Steele | 45 to 57 | — |
| Edward Morris | 47 to 55 | — |
| CharlesThomson | 49 to 60 | — |
| William Alexander (afterwards lord chief baron) | 50 to 60 | — |
| James Stephen | 51 to 60 | — |
| Joseph Jekyll | 55 to 60 | — |
| William Courtenay | 57 to 60 | — |
| Sir Thomas Plumer, M. R. | 58 to 60 | — |

The grant made by Charles II., and confirmed by William III., of the office of registrar of the court of Chancery, in trust for the Duke of St. Alban's, was continued by fresh patents, the last of which expired at the end of the eighteenth century; and the office of chief registrar was never filled up. But by an act in 1805 (45 Geo. III. c. 75) the appointments of deputy-registrar, made by the lord chancellor or lord keeper during the vacancy, were declared valid; and by the Chancery Regulation Act of 1833 (3 & 4 Will. IV. c. 94) the deputy-registrars were constituted registrars of the court; and the number by that and a subsequent act (5 Vict. c. 5) was increased to ten.[1]

## Chief Justices of the King's Bench.

William, Lord Mansfield, the chief justice for four years during the last reign, presided for nearly eight-and-twenty years in this, and was elevated to an earldom in 1776. His infirmities obliged him to resign on June 4, 1788, when

Sir Lloyd Kenyon, then created Lord Kenyon, the master of the Rolls, was promoted to the head of this court. In that character he died after not quite fourteen years of service, and was succeeded by

Sir Edward Law, then ennobled by the title of Lord Ellenborough, the attorney-general, on April 11, 1802. He served rather more than sixteen years, and then resigning,

Sir Charles Abbott, one of the judges of that Court, was promoted to be its chief on November 2, 1818, and still continued to preside at the death of the king.

[1] Hardy's Catalogue, 119.

### JUSTICES OF THE KING'S BENCH.

| | | |
|---|---|---|
| I. 1760. | Oct. | Thomas Denison, Michael Foster, John Eardley Wilmot, } judges at the commencement of the reign. |
| IV. 1764. | Jan. 24. | Joseph Yates, vice M. Foster. |
| V. 1765. | April 19. | Richard Aston, vice T. Denison. |
| VII. 1766. | Nov. 6. | James Hewitt, vice J. E. Wilmot. |
| VIII. 1768. | Jan. 27. | Edward Willes, vice J. Hewitt. |
| X. 1770. | Feb. 12. | William Blackstone, vice J. Yates. |
| | June 22. | William Henry Ashhurst, vice W. Blackstone. |
| XVIII. 1778. | May 6. | Francis Buller, vice R. Aston. |
| XXVII. 1787. | Feb. 9. | Nash Grose, vice E. Willes. |
| XXXIV. 1794. | April. | Soulden Lawrence, vice F. Buller. |
| XXXIX. 1799. | June 6. | Simon Le Blanc, vice W. H. Ashhurst. |
| XLVIII. 1808. | May. | John Bayley, vice S. Lawrence. |
| LIII. 1813. | June 23. | Henry Dampier, vice N. Grose. |
| LVI. 1816. | Feb. | George Sowley Holroyd, vice H. Dampier. |
| | April. | Charles Abbott, vice S. Le Blanc. |
| LIX. 1818. | Nov. | William Draper Best, vice C. Abbott. |

The judges of the King's Bench at the end of the reign were

Sir Charles Abbott, chief justice,

Sir John Bayley, Sir George Sowley Holroyd, Sir William Draper Best.

### CHIEF JUSTICES OF THE COMMON PLEAS.

SIR JOHN WILLES, who had already presided in this court for more than three-and-twenty years, occupied the seat for nearly fourteen months in this reign. On his death

SIR CHARLES PRATT, the attorney-general, succeeded on January 23, 1762, and was ennobled by the title of Lord Camden in July 1765. At the end of four years and a half, being made lord chancellor,

SIR JOHN EARDLEY WILMOT, a judge of the King's Bench, was on August 21, 1766, put in his place, which he filled for upwards of four years, and then resigned it to

Sir William de Grey, the attorney-general, on January 25, 1771. He presided eight years, and soon after his resignation was created Lord Walsingham.

Sir Alexander Wedderburn, created Lord Loughborough, the attorney-general, was promoted to the chief justiceship on June 9, 1780. On his being created lord chancellor,

Sir James Eyre, the chief baron, was made chief justice on January 28, 1793, and remained so till his death; when

Sir John Scott, then created Lord Eldon, the attorney-general, was constituted head of this court on July 18, 1799. On his being made nearly two years afterwards lord chancellor,

Sir Richard Pepper Arden, raised to the peerage as Lord Alvanley, the master of the Rolls, was appointed lord chief justice on May 30, 1801. In less than two years he died, and

Sir James Mansfield, a king's counsel, and who had filled the office of solicitor-general in 1780 and 1783, was selected as his successor on May 8, 1804. He presided about ten years, and on resigning gave place to

Sir Vicary Gibbs, the chief baron of the Exchequer, in Hilary vacation 1814. His ill health obliged him to resign in less than five years; when

Sir Robert Dallas, one of the judges of the court, was appointed chief justice in November 1818; and held the office when the reign terminated.

### Justices of the Common Pleas.

| | | |
|---|---|---|
| I. 1760. Oct. | Edward Clive,<br>Henry Bathurst,<br>William Noel, | judges at the accession of George III. |
| III. 1763. Jan. 24. | Henry Gould, vice W. Noel. | |

| | | |
|---|---|---|
| X. | 1770. Feb. 16. | Joseph Yates, vice E. Clive. |
| | June 22. | William Blackstone, vice J. Yates. |
| XI. | 1771. Jan. | George Nares, vice H. Bathurst. |
| XX. | 1780. July 19. | John Heath, vice W. Blackstone. |
| XXVII. | 1786. Nov. 7. | John Wilson, vice G. Nares. |
| XXXIV. | 1793. Nov. 13. | Giles Rooke, vice J. Wilson. |
| | 1794. March. | Soulden Lawrence, vice H. Gould. |
| | April. | Francis Buller, vice S. Lawrence. |
| XL. | 1800. June. | Alan Chambre, vice F. Buller. |
| XLVIII. | 1808. Hil. | Soulden Lawrence, vice G. Rooke. |
| LII. | 1812. May. | Vicary Gibbs, vice S. Lawrence. |
| LIV. | 1813. Nov. | Robert Dallas, vice V. Gibbs. |
| LVI. | 1816. Hil. | James Alan Park, vice A. Chambre. |
| | Feb. | Charles Abbott, vice J. Heath. |
| | May. | James Burrough, vice C. Abbott. |
| LIX. | 1818. Nov. | John Richardson, vice R. Dallas. |

On the death of the king the four judges of this court were

Sir Robert Dallas, chief justice,

Sir James Alan Park, Sir James Burrough,

Sir John Richardson.

## Chief Barons of the Exchequer.

Sir Thomas Parker, who had already been chief baron for twenty years, held the office under George III. for twelve years more, when he retired, and was succeeded by

Sir Sidney Stafford Smythe, one of the barons, on October 28, 1772. On his resignation five years afterwards,

Sir John Skynner, a Welsh judge, was promoted to the head of the Exchequer on November 27, 1777, where he remained about nine years, and on resigning,

Sir James Eyre, a puisne baron, was put in his place on January 26, 1787, which he retained for six years; when he was removed to the court of Common Pleas as chief justice, and

Sir Archibald Macdonald, the attorney-general, was appointed chief baron on February 13, 1793. After pre-

siding in the court for more than twenty years he resigned, his successor being

Sir Vicary Gibbs, a judge of the Common Pleas, who was appointed in November 1813, but sat there only two months, being removed into the court of Common Pleas as chief justice.

Sir Alexander Thomson, one of the puisne barons, was then raised to the head of the court in Hilary vacation 1814. In little more than three years he died, when

Sir Richard Richards, also a puisne baron, was made chief on April 22, 1817, and so remained during the rest of the reign.

## Barons of the Exchequer.

| | | | |
|---|---|---|---|
| I. | 1760. Oct. | Sidney Stafford Smythe, Richard Adams, Richard Lloyd, John Tracy Atkyns, curs., | barons at the commencement of the reign. |
| II. | 1761. Mich. | Henry Gould, vice R. Lloyd. | |
| III. | 1763. Jan. | George Perrot, vice H. Gould. | |
| XIII. | 1772. Nov. | James Eyre, vice S. S. Smythe. | |
| | 1773. August. | Francis Maseres, cursitor baron, vice J. T. Atkyns. | |
| XIV. | 1774. April 8. | John Burland, vice R. Adams. | |
| XV. | 1775. May 10. | Beaumont Hotham, vice G. Perrot. | |
| XVI. | 1776. April 15. | Richard Perryn, vice J. Burland. | |
| XXVII. | 1787. Feb. 7. | Alexander Thomson, vice J. Eyre. | |
| XXXIX. | 1799. July. | Alan Chambre, vice R. Perryn. | |
| XL. | 1800. June. | Robert Graham, vice A. Chambre. | |
| XLV. | 1805. Feb. 4. | Thomas Manners Sutton, vice B. Hotham. | |
| XLVII. | 1807. April. | George Wood, vice T. M. Sutton. | |
| LIV. | 1814. Hil. | Richard Richards, vice A. Thomson. | |
| LVII. | 1817. May 4. | William Garrow, vice R. Richards. | |

The barons at the end of the reign were

Sir Richard Richards, chief baron,

Sir Robert Graham, Sir William Garrow,

Sir George Wood, Francis Maseres, Esq., cursitor.

| A.R. | A.D. | LORD CHANCELLORS, ETC. | MASTERS OF THE ROLLS. | VICE CHANCELLORS. |
|---|---|---|---|---|
| 1 | 1760. Oct. | Robert, Lord Henley, *Keeper* | Sir Thomas Clarke. | |
| | 1761. Jan. 16 | — *Chancellor* | — | |
| 4 | 1764. May 19 | *cr.* Earl of Northington | — | |
| 5 | Dec. 4 | — | Sir Thomas Sewell. | |
| 6 | 1766. July 30 | Charles, Lord Camden, *Chancellor* | — | |
| 10 | 1770. Jan. 17 | Hon. Charles Yorke | — | |
| | Jan. 21 | Sir Sidney Stafford Smythe, B. E.; Hon. Henry Bathurst, Just. C. P.; Sir Richard Aston, Just. K. B. (*Commissioners*) | — | |
| 11 | 1771. Jan. 23 | Hon. Henry Bathurst, *Chancellor* | — | |
| | | *cr.* Lord Apsley | — | |
| 15 | 1775. Sept. 16 | *succ.* as Earl Bathurst | — | |
| 18 | 1778. June 3 | Edward, Lord Thurlow, *Chancellor* | — | |
| 23 | 1783. April 9 | Alexander, Lord Loughborough, Ch. C. P.; Sir William Henry Ashhurst, Just. K.B.; Sir Beaumont Hotham, B. E. (*Commissioners*) | — | |
| 24 | Dec. 23 | Edward, Lord Thurlow, *Chancellor* | — | |
| | 1784. Mar. 30 | — | Sir Lloyd Kenyon | |
| 28 | 1788. June 4 | — | Sir Rich. Pepper Arden. | |
| 32 | 1792. June 15 | Sir James Eyre, Ch. B. E.; Sir W. H. Ashhurst, Just. K. B.; Sir John Wilson, Just. C. P. (*Commissioners*) | — | |
| 33 | 1793. Jan. 28 | Alexander Lord Loughborough, *Chancellor* | — | |
| 41 | 1801. April 14 | John, Lord Eldon, *Chancellor* | — | |
| | May 27 | — | Sir William Grant. | |
| 46 | 1806. Feb. 7 | Thomas, Lord Erskine, *Chancellor* | — | |
| 47 | 1807. April 1 | John, Lord Eldon, *Chancellor* | — | *By St.* 53 *Geo. III. c.* 24. |
| 53 | 1813. April 10 | — | — | Sir Thomas Plumer. |
| 58 | 1818. Jan. 6 | — | Sir Thomas Plumer | Sir John Leach. |

## Court of King's Bench.

| G.R. | A.D. | Chief Justices. | Judges of the King's Bench. | | |
|---|---|---|---|---|---|
| 1 | 1760. Oct. | William, Lord Mansfield | Thomas Denison | Michael Foster | J. E. Wilmot. |
| 4 | 1764. Jan. 24 | — | — | Joseph Yates | — |
| 5 | 1765. April 19 | — | Richard Aston | — | — |
| 7 | 1766. Nov. 6 | — | — | — | James Hewitt. |
| 8 | 1768. Jan. 27 | — | — | — | Edward Willes. |
| 10 | 1770. Feb. 12 | — | — | Wm. Blackstone | — |
| | June 22 | — | — | W. H. Ashhurst | — |
| 16 | 1776. Oct 19 | *cr.* Earl | — | — | — |
| 18 | 1778. May 6 | — | Francis Buller | — | — |
| 27 | 1787. Feb. 9 | — | — | — | Nash Grose. |
| 28 | 1788. June 4 | Lloyd, Lord Kenyon | — | — | — |
| 34 | 1794. April | — | Soulden Lawrence | — | — |
| 39 | 1799. June 6 | — | — | Simon Le Blanc | — |
| 42 | 1802. April 11 | Edward, Lord Ellenborough | — | — | — |
| 48 | 1808. May | — | John Bayley | — | — |
| 53 | 1813. June 23 | — | — | — | Henry Dampier. |
| 56 | 1816. Feb. | — | — | — | G. S. Holroyd. |
| | April | — | — | Charles Abbott | — |
| 59 | 1818. Nov. 2 | Charles Abbott | — | W. D. Best | — |

## Court of Common Pleas.

| A.R. | A.D. | Chief Justices. | Judges of the Common Pleas. | | |
|---|---|---|---|---|---|
| 1 | 1760. Oct. | John Willes | Edward Clive | Henry Bathurst | William Noel. |
| 2 | 1762. Jan. 23 | Charles Pratt | — | — | — |
| 3 | 1763. Jan. 24 | — | — | — | Henry Gould. |
| 5 | 1765. July | *cr.* Lord Camden | — | — | — |
| 6 | 1766. Aug. 21 | J. E. Wilmot | — | — | — |
| 10 | 1770. Feb. 16 | — | Joseph Yates | — | — |
| | June 22 | — | W. Blackstone | — | — |
| 11 | 1771. Jan. 25 | William De Grey | — | George Nares | — |
| 20 | 1780. June 9 | Alexander, Lord Loughborough | — | — | — |
| | July 19 | — | John Heath | — | — |
| 27 | 1786. Nov. 7 | — | — | John Wilson | — |
| 33 | 1793. Jan. 28. | James Eyre | — | — | — |
| 34 | Nov. 13 | — | — | Giles Rooke | — |
| | 1794. March | — | — | — | S. Lawrence. |
| | April | — | — | — | Francis Buller. |
| 39 | 1799. July 18 | John, Lord Eldon | — | — | — |
| 40 | 1800. June | — | — | — | Alan Chambre. |
| 41 | 1801. May 30 | Richard Pepper, Lord Alvanley | — | — | — |
| 44 | 1804. May 8 | James Mansfield | — | — | — |
| 48 | 1808 Hil. | — | — | S. Lawrence | — |
| 52 | 1812. May | — | — | Vicary Gibbs | — |
| 54 | 1813. Nov. | — | — | Robert Dallas | — |
| | 1814. Hil. Vac. | Vicary Gibbs | — | — | — |
| 56 | 1816. Hil. | — | — | — | James Alan Park. |
| | Feb. | — | Charles Abbott | — | — |
| | May | — | James Burrough | — | — |
| 59 | 1818. Nov. | Robert Dallas | — | John Richardson | — |

## COURT OF EXCHEQUER.

| A.R. | A.D. | CHIEF BARONS. | BARONS OF THE EXCHEQUER. | | |
|---|---|---|---|---|---|
| 1 | 1760. Oct. | Thomas Parker | Sidney Stafford Smythe | Richard Adams | Richard Lloyd. |
| 2 | 1761. Mich. | — | — | — | Henry Gould. |
| 3 | 1763. Jan. | — | — | — | George Perrot. |
| 13 | 1772. Oct. 28 | S. S. Smythe | James Eyre | — | — |
| 14 | 1774. April 8 | — | — | John Burland | — |
| 15 | 1775. May 10. | — | — | — | Beaumont Hotham. |
| 16 | 1776. April 5 | — | — | Richard Perryn | — |
| 18 | 1777. Nov. 27 | John Skynner | — | — | — |
| 27 | 1787. Jan. 26 | James Eyre | | — | — |
| | Feb. 7 | — | Alexander Thom son | — | — |
| 33 | 1793. Feb. 13 | Arch. Macdonald | — | — | — |
| 39 | 1799. July | — | — | Alan Chambre | — |
| 40 | 1800. June | — | — | Robert Graham | — |
| 45 | 1805. Feb 4 | — | — | — | T. Manners Sutton. |
| 47 | 1807. April | — | — | — | George Wood. |
| 54 | 1813. Nov. | Vicary Gibbs | — | — | — |
| | 1814. Feb. 14 | Alexander Thomson | Richard Richards | — | — |
| 57 | 1817. April 22 | Richard Richards | | — | — |
| | May 4. | — | William Garrow | — | — |

Cursitor Barons.
1760, Oct., John Tracy Atkyns. 1772, Aug., Francis Maseres.

There are two privileged barristers in the court of Exchequer, called the post-man and tub-man; the earliest mention of whom is by Blackstone (iii. 28, note), who merely says that they are so called from the places in which they sit, and that they have a precedence in motions. Of their origin nothing has been found, though they are evidently of great antiquity. They are in the appointment of the lord chief baron, and are presumed to be elected from the most experienced of the barristers attending the court. They occupy two enclosed seats, one at each end of the front row of the outer bar; the post-man at the left of the bar (the right of the court), and the tub-man at the right of the bar. The former has pre-audience of all other barristers, and even of the attorney-general, in common law business; and the latter has the like privilege in equity business; and they are respectively called upon to make the first motion accordingly: the post-man being second in equity, and the

tub-man in common law. When the lord treasurer, or the chancellor of the Exchequer as first commissioner of the Treasury, comes, as senior judge of the equity side of the court, to be sworn in and take his seat, he calls upon the tub-man to move, who, if he has no other motion, moves that "the fact of the chancellor having taken the oaths and his seat be entered in the proper book of the Exchequer, as hath been used." Some instances of the chancellor of the Exchequer having been called upon to exercise his judicial functions have been mentioned in the last reign.

Neither the post-man nor tub-man has any rank or privilege in any other court than the Exchequer.

## Attorney-Generals.

| | | |
|---|---|---|
| I. | 1760. Oct. | Sir Charles Pratt, made Ch. C. P. |
| II. | 1762. Jan. 25. | Hon. Charles Yorke, resigned. |
| IV. | 1763. Dec. 16. | Fletcher Norton, resigned. |
| V. | 1765. Sept. 17. | Hon. Charles Yorke again: again resigned. |
| VI. | 1766. Aug. 6. | William De Grey, made Ch. C. P. |
| XI. | 1771. Jan. 26. | Edward Thurlow, made lord chancellor. |
| XVIII. | 1778. June 11. | Alexander Wedderburn, made Ch. C. P. |
| XX. | 1780. July 21. | James Wallace, resigned. |
| XXII. | 1782. April 18. | Lloyd Kenyon, resigned. |
| XXIII. | 1783. May 2. | James Wallace, died. |
| | Nov. 22. | John Lee, resigned. |
| | Dec. 26. | Lloyd Kenyon, made M. R. |
| XXIV. | 1784. March 31. | Richard Pepper Arden, made M. R. |
| XXVIII. | 1788. June 28. | Archibald Macdonald, made Ch. B. E. |
| XXXIII. | 1793. Feb. 14. | John Scott, made Ch. C. P. |
| XXXIX. | 1799. July 18. | John Mitford, elected Speaker. |
| XLI. | 1801. Feb. 14. | Edward Law, made Ch. K. B. |
| XLII. | 1802. April 15. | Hon. Spencer Percival, resigned. |
| XLVI. | 1806. Feb. 12. | Arthur Piggot, resigned. |
| XLVII. | 1807. April 1. | Vicary Gibbs, made Just. C. P. |
| LII. | 1812. June 26. | Thomas Plumer, made vice-chancellor. |
| LIII. | 1813. May 4. | William Garrow, made B. E. |
| LVII. | 1817. May 7. | Samuel Shepherd, made Ch. B. E. Scotland. |
| LIX. | 1819. July 24. | Robert Gifford. |

## SOLICITOR-GENERALS.

| | | |
|---|---|---|
| I. | 1760. Oct. | Hon. Charles Yorke, made attorney-general. |
| II. | 1762. Jan. 25. | Fletcher Norton, made attorney-general. |
| IV. | 1763. Dec. 16. | William De Grey, made attorney-general. |
| VI. | 1766. Aug. 6. | Edward Willes, made Just. K. B. |
| VIII. | 1768. Jan. 28. | John Dunning, resigned. |
| X. | 1770. March 30. | Edward Thurlow, made attorney-general. |
| XI. | 1771. Jan. 26. | Alexander Wedderburn, made attorney-general. |
| XVIII. | 1778. June 11. | James Wallace, made attorney-general. |
| XX. | 1780. Sept. 1. | James Mansfield, resigned. |
| XXII. | 1782. April 18. | John Lee, resigned. |
| | Nov. 7. | Richard Pepper Arden, resigned. |
| XXIII. | 1783. April 18. | John Lee, made attorney-general. |
| | Nov. 22. | James Mansfield, resigned. |
| | Dec. 26. | Richard Pepper Arden, made attorney-general. |
| XXIV. | 1784. April 8. | Archibald Macdonald, made attorney-general. |
| XXVIII. | 1788. June 28. | John Scott, made attorney-general. |
| XXXIII. | 1793. Feb. 14. | John Mitford, made attorney-general. |
| XXXIX. | 1799. July 18. | William Grant, made M. R. |
| XLI. | 1801. Feb. 14. | Hon. Spencer Perceval, made attorney-general. |
| XLII. | 1802. May 11. | Thomas Manners Sutton, made B. E. |
| XLV. | 1805. Feb. 12. | Vicary Gibbs, resigned. |
| XLVI. | 1806. Feb. 12. | Samuel Romilly, resigned. |
| XLVII. | 1807. April 1. | Thomas Plumer, made attorney-general. |
| LII. | 1812. June 26. | William Garrow, made attorney-general. |
| LIII. | 1813. May 4. | Robert Dallas, made Just. C. P. |
| LIV. | Dec. 22. | Samuel Shepherd, made attorney-general. |
| LVII. | 1817. May 9. | Robert Gifford, made attorney-general. |
| LIX. | 1819. July 24. | John Singleton Copley. |

## SERJEANTS-AT-LAW.

The Inn of court is noted by the added initial; and an asterisk is added to those who became judges.

II. 1761. *Henry Gould (M.) Joseph Sayer (M.)
Motto, "Moribus ornes."
1762. *Charles Pratt (I.) *John Burland (M.)
Motto, "Tu satis ambobus."

III. 1763. *George Perrot (I.) John Aspinal.
John Glynn.
Motto, "Jam fides et pax."

IV. 1764. *Joseph Yates (I.)
Motto, according to Wynne, "Pater et Custos;" according to the family account, "Legale judicium parium."

V. 1765. *Richard Aston. Richard Leigh.
William Jephson.
Motto, "Tua, Cæsar, ætas."

X. 1770. *William Blackstone (M.)
Motto, "Secundis, dubiisque, Rectus."
William Henry Ashhurst (J.)
Motto, "Veteres revocavit Artes."

XI. 1771. *William De Grey (M.)

XII. 1772. William Kempe. Thomas Walker.
Harley Vaughan.

XIII. *James Eyre. George Hill.
Motto, "Mos et Lex."

XIV. 1774. *Nash Grose (L.) James Adair (L.)
Motto, "Imperio regit Unus æquo."

XV. 1775. *Beaumont Hotham (M.) *John Heath (I.)
Motto, "Populos æterno fœdere jungat."

XVI. 1776. *Richard Perryn (I.)
Motto, "Tu regere Imperio Populos."

XVIII. 1777. *John Skynner.
Motto, "Morem servare."

1778. *Francis Buller (I.)
Motto, "Vim temperatam."

XX. 1779. James Clayton Bolton (M.)
Motto, "Non eget integer."

1780. *Alexander Wedderburn, Lord Loughborough (I.)

XXI. 1781. Cranley Thomas Kirby. *Giles Rooke.

XXVI. 1786. George Bond (M.)
Motto, "Hæreditas a legibus."

XXVII. *John Wilson (M.)
Motto, "Secundis laboribus."

1787. *Alexander Thomson. *Simon Le Blanc (I.)
*Soulden Lawrence (I.)
Motto, "Reverentia legum."
William Cockell (G.)
Motto, "Stat lege Coronæ."

XXVIII. Charles Runnington. J—— Watson.
S—— Marshall.
Motto, "Paribus se legibus."

XXVIII. 1788. *Lloyd Kenyon (L.) Ralph Clayton (G.)
Motto, "Quid leges sine moribus?"

XXX. 1789. John William Rose (I.)
Motto, "Vitium lege regi."

XXXIII. 1793. *Archibald Macdonald.

XXXV. 1794. Samuel Heywood (I). John Williams (I.)
Motto, "Legum servi ut liberi."

XXXVI. 1796. Arthur Palmer.
Motto, "Evaganti frœna licentiæ."
Samuel Shephed (I.)
Motto, "Legibus emendes."

XXXVIII. 1798. Baker John Sellon.
Motto, "Respice quid moneant leges."

XXXIX. 1799. *John Vaughan (I.)
Motto, "Paribus se legibus ambæ."
John Lens (L.) *John Bayley (G.)
Motto, "Libertas sub rege pio."
*Alan Chambre (G.)
Motto, "Majorum instituta tueri."
*John Scott, Lord Eldon (M.)
Motto, "Rege incolumi mens omnibus una."

XL. 1800. *William Draper Best (M.)
Motto, "Libertas in legibus."
*Robert Graham (I.) Arthur Onslow (M.)
Motto, "Et placitum læti componite Fœdus."

XLI. 1801. William Mackworth Praed (L.)
Motto, "Fœderi sequas dicamus leges."
*Richard Pepper Arden (M.)

XLII. 1802. *Edward Law, Lord Ellenborough (L.)
Motto, "Positis mitescunt secula bellis."

XLIV. 1804. *James Mansfield (M.)
Motto, "Serus in Cœlum redeas."

XLV. 1805. *Thomas Manners Sutton (L.)
Motto, "Hic ames dici Pater atque Princeps."

XLVII. 1807. *George Wood.
Motto, "Moribus ornes, legibus emendes."

XLVIII. 1808. *William Manley (M.) William Rough (I.)
Albert Pell (I.)
Motto, "Pro Rege et Lege."

XLIX. 1809. Robert Henry Peckwell (L.) William Frere (M.)
Motto, "Traditum de antiquis servare."

LII. 1812. *Vicary Gibbs (L.)
Motto, "Leges, juraque."

LIII. 1813. *Henry Dampier (M.)
Motto, "Consulta patrum."

LIII. 1813. *John Singleton Copley (L.)
Motto, "Studiis vigilare severis."
LIV. *Robert Dallas (L.)
Motto, "Mos et Lex."
1814. *Richard Richards (I.)
Motto, "Lex est ratio summa."
LV. 1814. *John Bernard Bosanquet (L.)
Motto, "Antiquam exquirite matrem."
LVI. 1816. *James Alan Park (M.)
Motto, "Qui Leges Juraque servat."
*Charles Abbott (M.)
Motto, "Labore."
*George Sowley Holroyd (G.)
Motto, "Componere legibus orbem."
*James Burrough (I.)
Motto, "Legibus emendes."
*John Hullock (G.)
Motto, "Auspicium melioris ævi."
LVII. 1817. William Firth.
Motto, "Ung Loi, Ung Roi, Ung Foi."
*William Garrow (L.)
Motto, "Fas et Jura."
LVIII. 1818. William Taddy (I.)
Motto, "Mos et Lex."
LIX. 1819. *John Richardson (L.)
Motto, "More majorum."
Vitruvius Lawes (I.) Thomas D'Oyley (M.)
John Cross (L.)
Motto, "Pro Rege et Lege."

## King's Serjeants.

III. 1763. William Davy.
IV. 1764. *John Burland (M.)
XI. 1771. Richard Leigh.
XII. 1772. James Forster (G.)
XIII. George Hill.
XXII. 1782. James Adair (L.)
XXXIII. 1793. *Giles Rooke.
XXXV. 1795. George Bond (M.) *Simon Le Blanc (I.)
XXXVI. 1796. William Cockell (G.) Samuel Shepherd (I.)
XLIV. 1804. John Williams (I.)
XLVI. 1806. John Lens (L.) *William Draper Best (M.)
LVI. 1816. *John Vaughan (L.)
LVII. Arthur Onslow (M.)
LIX. 1819. Albert Pell (I.) *John Singleton Copley.

Until 1813 the two most ancient of the king's serjeants had place and precedence before the attorney and solicitor general: but for many years few opportunities had been given them of exercising the privilege, which had become little more than a nominal honour. When, however, Sir Samuel Shepherd was selected as solicitor-general, he being one of the two ancientest serjeants would have taken rank before his superior officer the attorney-general. In order to prevent this reversal of the usual order, the opportunity was taken of getting rid altogether of a distinction which had almost become obsolete. The prince regent issued an order in December of that year directing that, "considering the weighty and important affairs in which the attorney and solicitor general are employed," they should "at all times hereafter have place and audience as well before the two ancientest of the king's serjeants as before the other serjeants of the law."[1]

The serjeants' feasts were laid aside from the commencement of this reign. The serjeants called at the first call in Michaelmas Term 1762, after the ceremony of inauguration, put off their parti-coloured robes, and put on their silk walking-gowns and coifs, and dined in Serjeants' Inn Hall, Chancery Lane; paying 100*l.* in lieu of the usual feast, and a fine of 10*l.*[2]

The presentation of rings to the judges, the bar, and the attorneys, was likewise discontinued, by an order of the society in 1787 (1 Term Reports, 647); but even with this deduction, the number of rings given to officers of state and other recipients in 1809, when Mr. Peckwell and Mr. Frere were called, was sixty, and the cost 53*l.* 19*s.* 6*d.*; although, when two or more serjeants are called, the same ring serves for all.

An account of the procedure was minutely recorded by

[1] 2 Maule and Selwyn, 253.

[2] Rayner's Blackstone, 30; Wynne, 133.

Mr. Peckwell, from which it appears to be the custom of an applicant for the coif to write to the lord chancellor and the lord chief justice of the Common Pleas intimating his desire to take the degree; and to his seniors on his circuit informing them of his application. The chancellor and chief justice consenting, a writ of summons is issued and a day fixed for the call. A writ and count are also to be prepared at the prothonotary's office, naming some manor and its lord, and a tenant to be demanded against,—usually two friends of the person called. He next names some barrister as his colt, whose duty it is to go round to the principal officers of state, &c., and present the rings. He then directs the steward of his inn to prepare a breakfast on the day of the call, and to send invitations to all the benchers. At the breakfast he takes his leave of the society, and the treasurer makes him a speech, which he concludes by presenting him with a purse of ten guineas. The new serjeant should leave his card at the houses of each of the judges a day or two preceding the call. The ceremony of the call is as near as may be to that which has been already described.

## King's Counsel.

(*Including those Barristers who had Patents of Precedence.*)

Anthony Thomas Abdy.
William Adam.
William Agar.
William Alexander.
Charles Ambler.
John Anstruther.
Richard Pepper Arden.
Daines Barrington.
Edward Bearcroft.
John Bell.
Samuel Yate Benyon.
William Blackstone.
Nathaniel Bond.
Foster Bower.
Francis Buller.
James Burrough.
Francis Burton.
Robert Matthew Casberd.
Nath. Goodwin Clarke.
Richard Clayton.
William Cooke.
Thomas Cooper.
Archibald Cullen.
Francis Cottayne Cust.
George Dallas.
Philip Dauncey.

Thomas Davenport.
Sylvester Douglas.
Thomas Erskine.
John Fonblanque.
William Garrow.
Stephen Gaselee.
Vicary Gibbs.
Robert Graham.
William Grant.
John Gurney.
George Harding.
Francis Hargrave.
William Harrison.
Anthony Hart.
George Heald.
Richard Hollist.
William Horne.
Henry Howarth.
Richard Hussey.
Richard Jackson.
Joseph Jekyll.
Thomas Jervis.
Lloyd Kenyon.
Edward Law.
John Leach.
John Lee.
Hugh Leycester.
John Lloyd.
Archibald Macdonald.
John Maddocks.
Samuel Marryat
Henry Martin.
James Mansfield.
Thomas Milles.
John Mitford.
John Morton.
George Lewis Newnham.
Michael Nolan.
William Owen.
James Alan Park.
Henry Partridge.
Spencer Perceval.
Richard Perryn.
Thomas Plumer.
Charles Pratt.
Griffith Price.
Jonathan Raine.
Richard Richards.
Samuel Romilly.
James Scarlett.
John Scott.
William Selwyn.
John Skinner.
T. Manners Sutton
Charles Thomson.
Edward Thurlow.
James Topping.
James Trower.
James Wallace.
Charles Warren.
John Richmond Webb.
Alexander Wedderburn.
Charles Wetherell.
John Frost Widmore.
George Wilson.
Giffin Wilson.
William Wingfield.

Till Lord Mansfield's time it had been the custom for the chief justice on the last day of term to call on the king's counsel in rotation, until they had exhausted their motions, so that the after-bar had little chance of being heard. To that great magistrate the credit is due of putting an end to this unjust arrangement; nor must equal credit be denied to the seniors, who at once consented to the alteration. He

introduced the practice of going through the whole bar, and calling on each counsel to make one motion.

The gradual profit of a counsel with extraordinary advantages about the middle of the last century, is shown by the fee-book of Mr. Charles Yorke, the son of Lord Chancellor Hardwicke, and afterwards chancellor himself. He was called to the bar in 1746, in which year he made only 12*l.*; in his second year, 20*l.*; in his third and fourth, between 300*l.* and 400*l.* each; in his fifth year, 700*l.*; in his sixth, above 800*l.*; in his seventh, nearly 1,000*l.*; and in his tenth, nearly 2,500*l.* In the next year, 1757, when he was solicitor-general, his fees exceeded 3,400*l.*; and in 1758 they were above 5,000*l.* His largest receipt in any one year was 7,322*l.* in 1763, being then attorney-general.[1]

In the next twenty-five years the fees to counsel must have much increased. From the fee-book of Sir John Scott (Lord Eldon) his receipts as king's counsel appear to have amounted in 1785 to 5,766 guineas; in 1786, to 6,833*l.* 7*s.*; in 1787, to 7,600*l.* 7*s.*; and in 1788, to 8,419*l.* 14*s.* As solicitor-general in 1789 they rose to 9,559*l.* 10*s.*; to 9,684*l.* in 1790; to 10,213*l.* 13*s.* 6*d.* in 1791; and to 9,080*l.* 9*s.* in 1792. In 1793, when he was made attorney-general, his profits were 10,330*l.* 1*s.* 4*d.*; in 1794, 11,592*l.*; in 1795, 11,149*l.* 15*s.* 4*d.*; in 1796, 12,140*l.* 15*s.* 8*d.*; in 1797, 10,861*l.* 5*s.* 6*d.*; and in 1798, the last entire year of his practice at the bar, 10,557*l.* 17*s.*[2]

In 1791 the tide ran so high that the lawyers were conveyed away from Westminster Hall in boats. Their fright of course occasioned the wits much amusement, as the following verse of a song will show:—

> "Of the fright universal it spread,
> Conception can ne'er form a notion;
> Wigs bristled upright on each head,
> Each counsellor stood without *motion*:

[1] Harris's Lord Hardwicke, iii. 440. [2] Twiss, i. 316.

The tide that for no man will stay,
While the clamour grew louder and louder,
From ev'ry tie-wig wash'd away
Common-sense, with the curls and the powder."

The squibs that circulate in Westminster Hall are so numerous, and often so good, that it is to be regretted that a legal album is not kept, and a recorder appointed. Many excellent specimens of forensic wit, which have been long interred in the tomb of the Capulets, would have been preserved to delight the rising generation, and have proved to the civilians that their legal brethren, though not noted for such "high jinks" as the Scottish advocates, can mix as much fun and frolic with their graver avocations. Could the records of some of the English circuits, and the proceedings of the convivial meetings that frequently terminated them, as the Horse-shoe Club, &c., be produced, they would perhaps be found to be not far behind their northern brethren in absurdity and burlesque.

One of the most jocular members of the legal fraternity in this reign was Joseph Jekyll, who afterwards became a master in Chancery. He was ready on all occasions. When some dull serjeant was fatiguing the court with a prosy argument, he amused the gaping circle with the following epigram:—

"The serjeants are a grateful race,
Their dress and language shew it;
Their purple garments come *from* Tyre,
Their arguments go *to* it."

A question of *lien* being in debate, Lord Eldon pronounced the word *lion*, while Sir Arthur Pigott always spoke of it as *lean*. This difference of pronunciation was chronicled by Mr. Jekyll in these lines, in which there is a sly hit at the reputed economy of his lordship's establishment: —

"Sir Arthur, Sir Arthur, why, what do you mean,
By saying the chancellor's *lion* is *lean*?
D'ye think that his kitchen's so bad as all that,
That nothing within it can ever get fat?"

On another occasion, when Mr. Garrow was unsuccessfully endeavouring to extract from an old spinster the proof of a tender of the money in dispute, Jekyll tossed to him these lines:—

"Garrow, forbear; that tough old jade
Will never prove a *tender maid*."

This is also attributed to Mr. Erskine, with whom amidst all his business the spirit of fun was never extinguished.

The dicta of the judges were sometimes turned to frolicksome account. The law of libel was very tightly interpreted, and it had been determined by the bench that everything that in any way caused annoyance to an individual came under the description. When, at a Westminster election, every voter was called upon to swear to his qualification, &c., the following was written on two of the judges not being exempted from the ordeal:—

"When Grose and Rooke had kiss'd the book,
The clerk who held the Bible
Was in a fright, and thought they might
Convict him of a libel.
For though, in sooth, they swore the truth,
Upright in all their dealings,
Yet still they both might say the oath
Was 'hurtful to their feelings.'"

From the *jeux d'esprit* of another humorous member of the Chancery bar, who had an epigram in every curl of his wig, and who, after filling several high judicial positions, still lives, the object of esteem and regard, the following may be culled. Mr. Beames, the reporter, having had a little wooden bar put up to prevent people from jogging his

elbow, and some one observing that it was a very flimsy one, Mr. (now Sir George) Rose answered:

> "Yes,—the partition is certainly thin,—
> But thick enough, truly, the Beames within."

To the same author we are indebted for the following characteristic description of some of his contemporaries:

> "Mr. Leach made a speech,
> Pithy, clear, and strong;
> Mr. Hart, on the other part,
> Was prosy, dull, and long.
> Mr. Parker made that darker
> Which was dark enough without;
> Mr. Bell spoke so well,
> That the chancellor said—'I doubt.'"

From an order of Quarter Sessions of the city of London in January 1782, assessing the inhabitants in the sum of 28,299*l.* 17*s.* 7*d.* for the relief of Thomas Langdale, the distiller, and several other persons, whose property had been destroyed during the riots of 1780, it appears that the several Inns within the city were thus rated:—

| | £ | s. | d. | | £ | s. | d. |
|---|---|---|---|---|---|---|---|
| Serjeants' Inn— | | | | Clifford's Inn . . . . | 40 | 0 | 0 |
| Fleet Street . . . | 40 | 0 | 0 | Staple Inn. . . . . | 17 | 0 | 0 |
| Chancery Lane . . | 30 | 0 | 0 | Barnard's Inn. . . . | 30 | 0 | 0 |
| Inner Temple . . . | 237 | 0 | 0 | Furnival's Inn . . . | 20 | 0 | 0 |
| Middle Temple . . . | 148 | 0 | 0 | | | | |

When either of the Inns of court refuses to call a member to the bar, the only appeal he has is to the twelve judges sitting as visitors; and there are two cases in this reign (Douglas, 339) in which the court of King's Bench refused a mandamus to the benchers, but referred the parties to the twelve judges.

LINCOLN'S INN.—In 1768 Bishop Warburton, who had been elected preacher to the society in 1746, transferred 500*l.* to trustees 'for the purpose of reading a lecture at

Lincoln's Inn, in the form of a course of sermons, to prove the truth of revealed religion from the completion of the prophecies."

FURNIVAL'S INN.—A lease of this inn, which ever since the year 1547 had been in the possession of the Society of Lincoln's Inn, was granted by that body in 1819 to Henry Peto for ninety-nine years, at a ground-rent of 500*l.*, and a payment in lieu of land-tax of 76*l.*

THAVIE'S INN.—The Society of Lincoln's Inn, which had possessed this inn since 1549, sold it in 1771 to Thomas Middleton, Esq., from whom it afterwards passed to Thomas Jones, Esq., and was pulled down in 1790.

CLEMENT'S INN.—In the garden of this inn there is the figure of a negro, supporting a sun-dial. On it the following bitter lines were said to have been found:—

"In vain, poor sable son of woe,
Thou seek'st the tender tear:
From thee in vain with pangs they flow,
For mercy dwells not here.
From cannibals thou fled'st in vain;
Lawyers less quarter give:
The *first* won't eat you till you're *slain*,
The *last* will do 't *alive*."

# BIOGRAPHICAL NOTICES

OF

# THE JUDGES UNDER THE REIGN OF GEORGE III.

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## ABBOTT, CHARLES, *afterwards* Lord Tenterden.

Just. C. P. 1816. Just. K. B. 1816. Ch. K. B. 1818.

*See* under the Reigns of George IV. and William IV.

## ADAMS, RICHARD.

B. E. 1760.

*See* under the Reign of George II.

Richard Adams was the son and heir of a gentleman of the same name residing at Shrewsbury. He was born in 1710, and having been admitted a member of the Inner Temple, was called to the bar in February 1735. He practised as a common pleader of the city of London, until he was elected its recorder on January 17, 1748. He obtained this honourable post after a severe contest, in which he was only successful by the casting vote of the lord mayor. During the time he held it he was knighted; and on February 3, 1753, he was promoted to the bench of the Exchequer.[1] Miss Hawkins, in the second volume of her Memoirs, relates that he owed his elevation to the king's admiration of him in his character of recorder. The ministers not agreeing on the person who should fill the vacancy occasioned by the removal of Mr. Baron Clive to the court of Common Pleas,

[1] Inner Temple Books; City List of Recorders.

George II. put an end to the discussion by calling out in his usual English, "I vill have none of dese; give me the man wid de dying speech," meaning the recorder, whose duty it was to make the report of the convicts under sentence of death.

After a judicial service of twenty years he died on March 15, 1773, at Bedford, while on the circuit, of the gaol distemper caught a fortnight before at the Old Bailey. In Lord Chief Justice Wilmot's Common-place Book his death is thus recorded:—"He was a very good lawyer and an excellent judge, having every quality necessary to dignify the character. I never saw him out of temper in my life, and I have known him intimately for forty years."[1]

ALVANLEY, LORD. *See* R. P. Arden.

APSLEY, LORD. *See* H. Bathurst.

## ARDEN, RICHARD PEPPER, Lord Alvanley.

M. R. 1788. Ch. C. P. 1801.

Of the family of Arden or Arderne, which is one of the oldest in Cheshire, an account has been already given of no less than four members, who held judicial positions: two in the reigns of Richard I. and John as justices itinerant; and two in the reigns of Henry VI. and Edward IV. as barons of the Exchequer, one of them being chief baron. The connection of Lord Alvanley with the latter has not been precisely traced. His great-grandfather was Sir John Arderne of Harden; his grandfather was John Ardern, buried at Stockport in 1703; and his father was John Arden of Arden; who by his marriage with Mary, daughter of Cuthbert Pepper, Esq., of Pepper Hall in Yorkshire, had two sons; the younger of whom is the subject of the present sketch.

[1] Gent. Mag. xxiii. 53, 100; xl. 142; Life of Wilmot, 199.

Richard Pepper Arden was born at Bredbury in 1745. After receiving his first education at the grammar-school in Manchester, he was admitted a gentleman commoner of Trinity College, Cambridge, in October 1763, having in the preceding year been entered at the Middle Temple. That he employed his time diligently while at the university, both in the studies which it principally encouraged and in the classics, is proved by his being named seventh wrangler in 1766, when he took his B.A. degree, and by his being elected in 1769 fellow of his college, when he proceeded M.A. His application did not prevent him from joining in society; and in the True Blue Club as well as in his college, his gaiety and good-humour gained him the favour of his fellow-students. By the heads of the house he was no less respected, and was entrusted by them with the revision of their statutes. Keeping his terms at the Middle Temple during this time, he was called to the bar in 1769, and after a short pupillage with an equity draftsman he took his seat in the back rows of the court of Chancery; and, according to the practice of the time, joined the Northern Circuit. At a very early period he was, by family interest, appointed recorder of Macclesfield, near his native place: and in 1776, when he had been scarcely seven years at the bar, he was constituted one of the judges on the South Wales Circuit, in conjunction with Daines Barrington. His chambers were in Stone Buildings, Lincoln's Inn, and it is said that those occupied by William Pitt were on the same staircase; but as he was fourteen years the senior of the great minister, the intimacy that existed between them must have commenced at a later period, and certainly could not have influenced his nomination to the Welsh judgeship, nor probably his advance to the honour of a silk gown, which he received in Michaelmas Term 1780, while Lord Thurlow was chancellor. This advance, especially considering that he was no favourite with

his lordship, shows that he had gained a considerable standing at the bar. What was the origin of their mutual dislike is not very clear, since they were equally free of tongue and careless of observation. The chancellor was fond of snubbing Mr. Arden, and one day the latter having in the excitement of his argument, in a cause in which the age of a woman was in dispute, said to the opposing counsel, "I'll lay you a bottle of wine she is more than forty-five,"—at once seeing the indecency, apologised to the chancellor, declaring that he forgot where he was. Thurlow growled forth, "I suppose you thought you were in your own court;" —alluding to the free and easy manner in which the proceedings in the Welsh courts were then conducted.

When Lord Shelburne became prime minister on the death of the Marquis of Rockingham in July 1782, Mr. Arden, no doubt by the instrumentality of his friend Mr. Pitt, then chancellor of the Exchequer, was, notwithstanding the disinclination of Lord Thurlow, appointed solicitor-general on November 7; and about the same time a seat in parliament was procured for him as the representative of Newton in the Isle of Wight. On the dissolution of that ministry in the following April he of course retired; but in nine months, the Coalition Ministry being in their turn discarded, and Mr. Pitt entrusted with the conduct of affairs, Mr. Arden was restored to his place in December 1783. He only held it for three months, when on March 31, 1784, he succeeded Lord Kenyon, both as attorney-general and chief justice of Chester. During this time he strenuously opposed Mr. Fox's East India Bill, and was an unflinching supporter of Mr. Pitt in his memorable contest with the coalesced opposition immediately after his appointment. For the new parliament of May 1784, which confirmed the ministerial power, Mr. Arden was returned member for Aldborough in Yorkshire; and in those of 1790 and 1796 he represented Hastings and

Bath respectively. In all the parliaments he was a frequent and effective, though not a brilliant, speaker. He exposed himself in 1784 to some just censure by proposing a loose enactment with reference to elections; and by indiscreet acknowledgments he laid himself open to the sarcastic taunts of his opponents. The shafts of the writers of the "Rolliad" and of the "Probationary Odes" were levelled against him, as well for his want of law as of personal beauty. But the good-humour with which he met these attacks disarmed them of their sting and silenced his assailants.

On the elevation of Lord Kenyon, he succeeded as master of the Rolls on June 4, 1788; notwithstanding Lord Thurlow's opposition, which was only silenced by a significant hint from the king. The animosity and disrespect of the defeated chancellor were unhandsomely shown against the new master on all occasions, and particularly by calling upon Mr. Justice Buller to sit for him when he was ill, or idle, which was frequently the case. The master of the Rolls was too goodnatured and too wise to retaliate. He discreetly avoided the slightest appearance of any angry feelings existing between the judges; and the only revenge he took for the chancellor's dislike was by proving his antagonist mistaken in his estimate of him; and indeed at the same time surprising the legal profession by the excellent manner in which he decided the various cases in equity that came before him; his judgments being far the best that were pronounced in the court of Chancery during the period in which he sat. He was knighted at his promotion. After enduring philosophically the roughness of Thurlow for four years, he worked for nine more with complete harmony under Lord Loughborough; on whose retirement from the Seals and the elevation of Lord Eldon to the chancellorship, Sir Richard was on May 30, 1801, constituted lord chief justice of the Common Pleas, which Lord Eldon had

vacated. On the 22nd of that month he had been created a peer by the title of Lord Alvanley, a manor in the parish of Frodsham in Cheshire, which had been in the possession of his family ever since the reign of Henry III.

He performed the judicial functions of his new position with so much efficiency and learning that the serjeants, though some of them annoyed him by petty altercations, congratulated themselves in the prospect of being presided over by an esteemed ruler for a long series of years. This from his age they were justified in predicting; but to the regret of all in less than three years he was suddenly seized, while presiding in the House of Lords for Lord Eldon, with a violent attack of inflammation, which after three days of suffering terminated fatally on March 19, 1804. He died at his house in Great George Street, Westminster, and was buried in the chapel of the Rolls.

As a judge he falsified the jokes of his early opponents by proving himself a good lawyer and a conscientious administrator of justice;—but at the same time he justified the insinuation of Lord Thurlow about the practice in his Welsh courts, by the familiar and somewhat undignified conduct which he permitted and adopted in the Common Pleas. To the last he preserved the character he had borne from the commencement of his career, of a hearty, good-humoured, and entertaining companion, and of a simple, steady, and kind-hearted friend. His advance in dignity had not the common effect of rendering him either proud, formal, or reserved: neither did it have the better effect of sobering the quickness of his temper. His occasional irritabilities indeed made the French interpretation of his name, "Mons. Poivre Ardent," peculiarly applicable. These however were slight failings, and did not prevent his being universally esteemed, or being looked upon with affection and respect by "troops of friends;" one of the earliest,

most intimate, and steady of whom was the great minister William Pitt.

In 1784 he married Anne Dorothea, daughter of Richard Wilbraham Bootle, Esq., of Lathom Hall in Lancashire, the father of the first Lord Skelmersdale. This lady survived her husband till 1825. Of their children the two eldest sons held the title successively, which on the death of the latter in 1857 became extinct.[1]

## ASHHURST, WILLIAM HENRY.

JUST. K. B. 1770. COM. G. S. 1783 AND 1792.

THE family from which this judge descended derived its name from Ashhurst, near Wigan in Lancashire, where it was resident soon after the Conquest. Among its members were some famous knights, members of parliament, and merchants, one of whom was Sir William Ashhurst, lord mayor of London in 1693. Henry Ashhurst, one of the younger branches, settled at Waterstock in Oxfordshire, formerly the property of Sir George Croke the judge, and was created a baronet by James II. in July 1688, but the title became extinct on the death of his son in 1732. The Waterstock property then devolved on his niece, Diana the only child of Sir Richard Allin, Baronet, of Somer-Leighton in Suffolk, by the daughter of Sir Henry Ashhurst; and by her marriage with Thomas Henry Ashhurst, vice-chancellor of the Duchy of Lancaster, and recorder of Liverpool and Wigan, the representative of the elder branch, the two estates became united. They were the parents of several children, the third son, and eventually the heir, being William Henry the future judge.

He was born at Ashhurst on January 25, 1725; and was

[1] Lives, by Jardine, in Biog. Dict. Soc. of Useful Knowledge, and by W. C. Townsend, &c.

educated at the Charter House. After his admission to the Inner Temple in 1750, he practised as a special pleader under the bar, one of his pupils being his future colleague on the bench, Mr. Justice Buller. In 1754 he became a barrister, and in that character pursued an honourable career for twenty years; during which he was appointed to the office of auditor of the Duchy of Lancaster.

On the removal of Sir William Blackstone to the court of Common Pleas, Mr. Ashhurst was selected to succeed him as a judge of the King's Bench, to which he was appointed on June 25, 1770, and at the same time was knighted. He sat in that court no less than twenty-nine years, preserving the character of an impartial administrator of justice, and a careful expounder of the law, united with a benevolent heart and polished manners. His countenance was expressive of the kindness and amiability of his disposition; but being rather lank, was often made a subject for the barristers' jokes. Mr. (afterwards Lord) Erskine is said to have indited this complimentary couplet on him:

> "Judge Ashhurst, with his *lanthorn* jaws,
> Throws *light* upon our English laws."

Lord Campbell, with less probability, substitutes the name of Sir Nash Grose.

The best proof of his legal reputation, and of the estimation in which he was regarded, was that during his judicial life he was twice entrusted with the custody of the Great Seal as one of the commissioners: the first time from April 9 to December 23, 1783, during the interval between the two chancellorships of Lord Thurlow; and the second from June 15, 1792, to January 28, 1793, between that lord's retirement and the appointment of Lord Loughborough. While acting in that capacity he still performed his duties in the King's Bench, and during the latter period he delivered,

in November 1792, a very able address to the grand jury of Middlesex on the subject of the seditious meetings and corresponding societies which were consequent on the French Revolution. On June 9, 1799, being then in the seventy-fifth year of his age, he resigned his seat on the bench, and retired to his residence at Waterstock, where, after surviving his resignation a little more than eight years, he died on November 5, 1807.

By his wife, Grace, daughter of John Whalley of Oxford, M.D., and sister of Sir John Whalley Smythe Gardiner, Bart., (whom he married after he became a judge,) he left several children. His eldest son represented Oxfordshire for many years, and his descendant now resides on the family estate and holds a distinguished position in the county.[1]

## ASTON, RICHARD.

JUST. K. B. 1765. COM. G. S. 1770.

THE family of Aston of Aston in Cheshire is of great antiquity, dating from the reign of Henry II., and numbering among its members many sheriffs of that county, loyal knights and soldiers, and officers of the royal household, until the reign of Charles I., when that monarch in 1728 honoured the head of the house with a baronetcy. The judge now to be noticed was grandson of the second and brother of the fifth baronet, both named Sir Willoughby Aston. His father was Richard Aston of Wadley, the sixth son of the former; and his mother was Elizabeth, daughter of John Warren, Esq., of Oxfordshire.

Having gone through all the preliminary steps, and been admitted as a barrister, he was so successful in his practice

[1] Hist. of Croke Family, 377, 559; Blackstone's Rep. 719; Hardy's Catal. 83; 8 Term Rep. 259; Gent. Mag. lxii. 1049, lxxvi. 1084.

that he attained in 1759 the rank of king's counsel; from which he was advanced two years afterwards to the office of chief justice of the Common Pleas in Ireland. Here his career was unfortunate. He found that justice was very loosely administered; it being the common practice for grand juries to find the bills without examining witnesses, but upon the mere inspection of the depositions taken before the committing magistrate. Against this and other irregularities the chief justice naturally remonstrated; but his representations of the illegality of these proceedings produced no other effect than to create a prejudice against him in the minds of the provincial magistrates and squires, which was considerably heightened by the rude and overbearing manner in which he delivered his admonitions. These disputes frequently occurring, the judge's position became so disagreeable that he solicited a removal. Accordingly, on the death of Sir Thomas Denison, he bade adieu to his Irish antagonists, and was transferred to the English court of King's Bench on April 19, 1765; being at the same time knighted.

In this new arena his brusque demeanour nearly led to more serious consequences. On a motion relative to a libel, a barrister had the imprudence to make an affidavit that he believed it to be no libel. This being a mere matter of opinion, Lord Mansfield and the other judges goodnaturedly overlooked the impropriety as a foolish ebullition of the lawyer's zeal: but Sir Richard coarsely declared "that he would not believe such a man's oath." The barrister, naturally indignant, watched for an opportunity to be revenged, and tracing the judge's movements succeeded in detecting him "in a sale of lottery tickets, presumed to be received as the wages of judicial prostitution in the memorable trials about Wilkes and Junius." This evidence of guilt was proclaimed in a manly pamphlet and believed by every one, being unanswered and unnoticed by the subject of the charge. A

laughable pendent of this story is related, that when Sir Richard was upbraided with such conduct, he coolly replied, "I think, sir, I have as good a right to sell my tickets as my brother Willes." [1]

Whether these charges were exaggerated, or wholly true, or partially false, they did not prevent Sir Richard Aston from being entrusted with a more responsible office. On the sudden death of Lord Chancellor Yorke he was appointed, in conjunction with Mr. Baron Smythe and Mr. Justice Bathurst, a commissioner of the Great Seal on January 21, 1770. Though they retained the Seal for a year, yet, as neither of them had had much experience in equity, their rule was not a very distinguished one, and their decisions were supposed to be guided principally by Lord Mansfield's advice. Their trust terminated on January 23, 1771, when one of their number, Mr. Justice Bathurst, was made lord chancellor, and Sir Richard resumed his duties in the King's Bench, where he continued till his death on March 1, 1778.

He married, first, a daughter of — Eldred; and secondly, Rebecca, daughter of Dr. Rowland, a physician of Aylesbury, and widow of Sir David Williams, Bart.; but he left no issue by either.[2]

## ATKYNS, JOHN TRACY.

CURS. B. E. 1760.

*See* under the Reign of George II.

JOHN TRACY ATKYNS was the third son of John Tracy, Esq., of Stanway in Gloucestershire, (grandson of the third Viscount Tracy,) by Anne the daughter of Sir Robert Atkyns, lord chief baron in the reign of William III. He entered the Society of Lincoln's Inn in 1724, and was called

[1] Burrow's S. C. 533: Memoir of Francis Horner, ii. 364; Smyth's Law Off. of Ireland, 122, 251, 311; Law and Lawyers, ii. 140.

[2] Burke's Extinct Baronetage, 26, 569.

to the bar in 1732. It does not appear at what date he assumed the name of Atkyns, nor when he discarded it, resuming his father's name; but under the former he received the appointment of cursitor baron of the Exchequer on April 22, 1755, and under the latter he made a codicil to his will in 1768. He died on July 24, 1773; and left no issue by his wife, of whom we have no other record than that her Christian name was Katherine.

He had earned the office to which he attained, by the industry with which he devoted himself to taking notes of the cases in the court of Chancery during the whole period that Lord Hardwicke presided there; the Reports of which he had the boldness to publish without the judge's usual allocatur, in three folio volumes, the first volume in 1765, the year after the chancellor's death. They are highly valued for their correctness, and have passed through several editions. Chief Justice Wilmot describes him in his Diary as "a cheerful, good-humoured, honest man; a good husband, master, and friend."[1]

## BATHURST, HENRY, Lord Apsley, and Earl of Bathurst.

Just. C. P. 1760. Com. G. S. 1770. Lord Chanc. 1771.

*See* under the Reign of George II.

The Bathursts were originally seated at Bathurst near Battel in Sussex, but afterwards removed into Kent. One member received a baronetcy (of Leachdale in Gloucestershire) in 1643, which is now supposed to be extinct; and several others were merchants and aldermen of London. The immediate ancestor of the chancellor resided at Staplehurst in the reign of Henry VIII., and one of his grandsons

[1] Case on the Claim of the Tracy Peerage, by James Tracy; Pat. 28 Geo. II. p. 4; Wilmot's Life of Chief Just. Wilmot, 199.

was the father of the celebrated Dr. Ralph Bathurst, president of Trinity College, Oxford, and dean of Wells. The dean's brother, Sir Benjamin, was the father of Allen, who, after serving in two parliaments for the borough of Cirencester, was one of the twelve peers created by Queen Anne in 1711, for the purpose of obtaining a majority in the House of Lords. To his title, Baron Bathurst of Battlesden in Sussex, he received sixty-one years afterwards the additional rank of an earl, as an acknowledgment and reward for his services to the State, and his eminence in the social and literary world. He died at the age of ninety-one in 1775, having lived to see his son elevated to the peerage and to the dignity of lord high chancellor of Great Britain. That son was one of the nine children he had by his wife Catherine, daughter and heir of Sir Peter Apsley of Apsley in Sussex.

Henry Bathurst, the second, but eldest surviving son of the earl, was born on May 20, 1714. He took the degree of B.A. at Christ Church, Oxford, in 1733, and was called to the bar by the Society of Lincoln's Inn in Hilary Term 1736. He had already been returned to parliament in the previous year as member for Cirencester, which he continued to represent till 1754, adopting the politics of the party of which his father had been so long a prominent leader. Neither as senator nor barrister did he hold any distinguished position; but, though his business in the courts was by no means commanding, he was in 1746 chosen solicitor-general, and shortly after attorney-general, to Frederick, Prince of Wales. The spirit of his opposition to the court seems to have subsided at the prince's death in 1751, although he filled the same office to the princess till his elevation to the bench. He had on entering the prince's service been honoured with a patent of precedency; and in 1752 he was the leading counsel for the Crown in the trial at the Oxford Assizes of Elizabeth Blandy for the murder of her father;

his speech in which has been praised for its eloquence, but is too exaggerated an appeal to the feelings of the jury to be approved by modern ears. Soon after the death of Mr. Justice Gundry he was raised to the bench, and took his seat as a judge of the Common Pleas on May 2, 1754, at the age of forty.

Though the legal quiet of that court is seldom interrupted by state questions, the sham patriot John Wilkes in 1763 made it the arena for his display, and Mr. Justice Bathurst concurred in the constitutional decisions of his chief, Lord Camden. After occupying his seat for sixteen years, the sudden death of the Hon. Charles Yorke occurred, and the Great Seal was, on January 21, 1770, placed in the hands of three commissioners, the second of whom was Mr. Justice Bathurst. They held it for a year, but their rule met with so little approbation that the minister found it necessary to appoint a lord chancellor. Though very limited in his choice, the profession was greatly surprised on finding Judge Bathurst, who was considered "the most incapable of the three" commissioners, selected to fill that high and responsible post. The Seal was delivered to him on January 23, 1771, and he was on the same day created Lord Apsley; and went in state from his house in Dean Street to Westminster to take the oaths. He naturally found himself in a wrong position, and it was said that he never entered his court with a firm and dauntless step. Overawed by Thurlow, Wedderburn, and other counsel practising at his bar, he was so little conversant with either the principles or practice of equity, that his decisions have no value in the profession. But being a staunch supporter of Lord North's measures, he was retained in his place for more than seven years; at the end of which, from a failure in his health, or perhaps a consciousness of his inefficiency, he resigned the Seal on June 3, 1778; one of his last and most praiseworthy acts being the appointment of

his nephew, Francis Buller, to a vacant judgeship. He declined any retiring pension; and was in the following year continued in the cabinet with the office of lord president of the council, which he held till Lord North's ministry terminated in 1782. In the twelve years he survived he gradually retired from political life, and died from natural decay at his seat, Oakley Grove near Cirencester, on August 6, 1794, in his eighty-first year.

In his public life he was honourable and sincere; as a judge he was esteemed by the bar for his kindness of manner; and in private life he was thoroughly amiable. Though of a cheerful and good-humoured disposition, he was not quite so jovial as his father, who took his wine freely to the last day of his long life. On one occasion at a party at Oakley, the chancellor having retired somewhat early from the conviviality, the old earl chuckled and said to the rest of the company, "Now, my good friends, since the *old* gentleman is off, I think we may venture to crack another bottle." Neither was he so liberal a patron to literature as his father; but it should be remembered to his credit, that he was the first to encourage Sir William Jones by substantial tokens of regard.

Apsley House in Piccadilly was built by him, and the joke in Lincoln's Inn Hall, that "an old woman could beat him in his own court," was founded on his being obliged by the threat of a chancery suit to buy off the widow of an old soldier, on whose site he had encroached in his new erection. Though certainly not distinguished by extraordinary abilities, and not holding an eminent rank as a chancellor, there can be little doubt that his deficiencies were magnified by Whig biographers.

In 1775, while he was yet chancellor, he succeeded to his father's earldom. He married twice. By his first wife, Anne, daughter of — James, Esq., and widow of Charles

Phillips, Esq., he had no issue; but by his second wife, Tryphena, daughter of Thomas Scawen, Esq., of Maidwell in Northamptonshire, he left six children. His successor held a distinguished place in the government, and the House of Lords is still graced by his descendants.[1]

## BAYLEY, JOHN.

Just. K. B 1808.

*See* under the Reigns of George IV. and William IV.

## BEST, WILLIAM DRAPER, *afterwards* Lord Wynford.

Just. K. B. 1818.

*See* under the Reign of George IV.

## BLACKSTONE, WILLIAM.

Just. K. B. 1770. Just. C. P. 1770.

The name of Blackstone is inseparably connected with the law of England. What Lyttelton and his crabbed expositor were to our legal ancestors, Blackstone is to modern students: and though some of the more earnest or more ambitious of them may seek honours by endeavouring to fathom the mysteries of the "Tenures," the *οἱ πολλοί* of the profession are content to earn an easy degree by mastering the more attractive lessons conveyed in the "Commentaries." So popular have they become, that, where the study was confined in former times to those who pursued it as an avocation, few men of rank or fortune now consider their education complete without gaining an insight into the constitution of the country through Blackstone's easy and perspicuous pages; and Abridgments are even introduced into schools for the instruction of the young. Whether this facility is produc-

[1] Collins' Peerage, v. 93; Welsby's Lives, 352; Strictures on Lawyers, 73.

tive of better lawyers must be left as a question for our critical descendants.[1]

William Blackstone was the fourth and posthumous son of Charles Blackstone, a respectable silkman in Cheapside, London, descended from a family originally settled in the neighbourhood of Salisbury. His mother, who was Mary, daughter of Lovelace Bigg, Esq., of Chilton Foliot in Wiltshire, also died before he was twelve years old. He was born on July 10, 1723, and from his birth his education was undertaken by the brother of his mother, Mr. Thomas Bigg, an eminent surgeon in Newgate Street. In 1730 he was put to school at the Charter-house; and in 1735 was admitted on the foundation there; becoming the head of the school at the age of fifteen, and distinguishing himself not only in the customary oration in commemoration of the founder, which he recited on December 12, 1738, but also by obtaining Mr. Benson's prize medal for verses on Milton. He had in the preceding month been entered at Pembroke College, Oxford, and elected to a Charter-house exhibition; to which in February following was added one of Lady Holford's exhibitions, unanimously given by the fellows of the college.

These honours show the diligence and success with which he pursued his juvenile studies. In the university he was remarkable for the same assiduity, not confining himself to the classics, but devoting himself to those sciences, the investigation of which tended so much to the simplicity and clearness of his writings. Among these he was peculiarly fond of architecture, and before he was of age he composed a treatise on the subject, which, though never published, was much admired. His partiality for the Muses, already shown by his prize poem on Milton, and afterwards exhibited by several

[1] The present writer was author of one of the Abridgments published in 1820, under the name of John Gifford, which, after a considerable circulation, was translated into German.

elegant fugitive pieces, he found too fascinating and engrossing for the profession to which he was destined; and, resolving upon "total abstinence," he wrote, on entering the Middle Temple, a "Farewell to his Muse," in strains which induced many to regret he should leave the flowery path of poetry for the more rugged and sterile ways of the law. These lines were afterwards printed in the fourth volume of Dodsley's Miscellanies. Notwithstanding this formal adieu, he could not altogether refrain; and among other pieces he wrote some verses on the death of the Prince of Wales in 1751, which were published in the Oxford collection as the composition of his brother-in-law, James Clitherow. He amused himself also by annotating Shakespeare, and communicated his notes to Mr. Steevens, who inserted them in his last edition of the plays.

He was admitted a member of the Middle Temple on November 20, 1741, and was called to the bar on November 28, 1746. But in the intervals of his attendance on the courts he still continued his academical studies at the university; where he was elected in November 1743 into the Society of All Souls, of which he was afterwards admitted a fellow, and delivered the anniversary speech in commemoration of the founder. There also he took his degree of B.C.L. in June 1745. On being appointed bursar of his college he reduced the confusion in which he found the accounts into lucid order, and left a dissertation on the subject for the benefit of his successors. He not only arranged the muniments of their estates, but greatly assisted in the re-edification of the Codrington Library and in the classification of its contents; in gratitude for all which services the college appointed him in 1749 steward of their manors. In 1750 he commenced doctor of civil law; and in the same year published an "Essay on Collateral Consanguinity," with the view of removing the inconvenience

felt by the college of electing any person who could prove himself of kin to the founder in preference to any other candidate. His arguments had so much weight that soon after a new regulation was introduced limiting the number of founder's kin.

His progress at the bar in the meantime was so slow and unproductive that, though he had been in 1749 elected recorder of Wallingford, he determined in 1753 to retire to his fellowship, and only practise as a provincial counsel. About this time the professorship of civil law in the university became vacant, and the Solicitor-General Mr. Murray (afterwards Lord Mansfield), with a just appreciation of Dr. Blackstone's abilities, strongly recommended him for the place. The Duke of Newcastle promised it; but it is believed was not satisfied with the devotion of the candidate to his grace's politics, for after a short interview with him, it was given to another. Mr. Murray was naturally disgusted, and advised the doctor to read the lectures on law he had long been preparing to such students as were disposed to attend him. He at once adopted the plan and met with immediate success. These lectures form the basis of that work, upon which is founded his imperishable fame; and as a guide to those who listened to them, he published in the next year "An Analysis of the Laws of England," clearly methodising the intricate science.

One of the earliest fruits of the acknowledged excellence of his lectures was his unanimous election to the first professorship of law, on the foundation established under the recent will of Mr. Charles Viner, the laborious compiler of that "Abridgment of Law and Equity," the twenty-four volumes of which must necessarily occupy the shelves of a lawyer's library. That election took place in 1758, only two years after Mr. Viner's death; and the new professor in the same year published not only his admired "Introductory

Lecture" but also a treatise entitled "Considerations on Copyholders," which produced an act of parliament establishing their rights in the election of members of parliament. The fame of his lectures was so great that he was requested to read them to the Prince of Wales, an application which, though his engagements obliged him to decline it, he so far complied with as to transmit copies for his Royal Highness's perusal. This was repaid by a present gratuity to the professor, and the future favour of the royal pupil, when he became sovereign, towards the judge. Justly conscious that his legal character was now established, the professor resumed his attendance at the bar in Michaelmas, 1759; but declined the honour of the coif that was offered to him, and afterwards that of chief justice of the Common Pleas in Ireland.

During the whole of this period he had exerted himself in various ways for the benefit of his alma mater in the different positions by which his efficiency was recognised. He was appointed the archbishop's assessor as visitor of All Souls' College; he was elected visitor of Michel's new foundation in Queen's College, and by his tact and management put an end to the disputes which had long frustrated the original intentions of the donor; and as one of the delegates of the "Clarendon Press" he introduced new regulations, the good effect of which are seen at the present day. From that press one of the earliest and best specimens of its reformed typography was his publication in 1759 of a new edition of the Great Charter and Charter of the Forest, which led to a controversial correspondence on the authenticity of a particular copy between Dean (afterwards Bishop) Lyttleton and him, addressed to the Society of Antiquaries of which he was a fellow.

By his marriage in 1761 with Sarah daughter of James Clitherow, Esq., of Boston House, Middlesex, he vacated his fellowship of All Souls; but in the same year the Earl

of Westmoreland, then chancellor of the university, appointed him principal of New Inn Hall, by which he was enabled to continue his residence at Oxford for the delivery of his lectures. In the early part of that year he had been elected member for Hindon in the parliament then called; and also received a patent of precedence in the courts, to which he was well entitled, not only by the fame he had acquired, but by the increase of his business. The specimens preserved of his advocacy prove the excellence of his argumentative powers. In 1763 he was constituted solicitor-general to the queen, and became a bencher of his Inn.

To repress the encroachments of piratical booksellers, who were selling imperfect copies of his lectures, he determined to issue them himself in the form of "Commentaries on the Law of England." He accordingly published his first volume in 1765, and the three succeeding volumes in the four following years; and from that time to the present the work has formed a text book for all students, admired equally for its expositions and the eloquence and purity of its language. With the applause which it deservedly attained, it was not likely that it should escape some amount of critical detraction. Some political censors differed from his views of the principles of the constitution; Dr. Priestley animadverted on certain of his ecclesiastical positions, which were defended by the author; and to an attack upon him by a member of parliament for some observations he had made in the house, which were alleged to be contrary to the principles laid down in his work, he also published a reply justifying the position he had taken, which was severely commented on by Junius. But all, whether opponents or supporters of his doctrines, joined in a universal eulogy of the clearness and beauty of his style, the aptness of his classical allusions, and the allurements with which it enriched a science which had previously repelled the student by its rugged exterior. It has

become, and will ever remain the student's manual; and the continued demand for it has found employment for a long succession of accomplished editors, who by introducing the subsequent changes in the law, have made it as necessary and useful to its latest, as it was to its earliest, readers.

In the new parliament of 1768 he was returned for Westbury, but sat in it only two years; for, though from a disgust at political controversy he declined the place of solicitor-general in January 1770, he readily accepted a judgeship which was offered to him in the following month on the death of Mr. Justice Clive. He actually kissed hands as judge of the Common Pleas on February 9; but at the request of Mr. Justice Yates, who wished to escape collision with Lord Mansfield, he consented to take that judge's place in the King's Bench, and again kissed hands for that court on the 16th of the same month, when he received the honour of knighthood. Mr. Justice Yates died four months after, when Mr. Justice Blackstone removed into the Common Pleas on June 22.[1]

Whoever reads the reports of the period during which he sat upon the bench, must acknowledge that he was equally distinguished as a judge, as he had been as a commentator. Some of the judgments that he pronounced are remarkable for the learning they display, and for the clearness with which he supports his argument; and in the few instances in which he differed from his colleagues, his opinion was in general found to be right.

He devoted his latter years to the improvement of prison discipline, and, in conjunction with Mr. Howard, obtained in 1779 an act of parliament for the establishment of penitentiary houses for criminals. The beneficial effects of the system, though not at first sufficiently perceived, are now universally acknowledged; and the amended condition of

[1] Blackstone's Reports, 681, 619.

our gaols, in the cleanliness, classification, and employment of the prisoners, is the best proof of the wisdom and benevolence of the projectors. In the same year, having agitated the necessity of an augmentation of the judges' salaries, to meet the increased taxation and expenditure of the time, he obtained for them an addition of 400*l.* to their stipend.

Ere he had been long on the bench he experienced the bad effects of the studious habits in which he had injudiciously indulged in his early life, and of his neglect to take the necessary amount of exercise, to which he was specially averse. His corpulence increased, and his strength failed; and after two or three attacks of distressing illness he expired on February 14, 1780. He was buried in a vault at St. Peter's church at Wallingford, where he possessed a seat called "Priory Place." This town, in which, as its recorder, he felt a great interest, derived many substantial advantages from the improvements he projected and promoted by his active superintendence; one of which was the rebuilding of its church with its elegant spire, in which he displayed his architectural knowledge. A statue of the judge, by Bacon, was placed soon after his death in the hall of All Souls' College.

The Reports which he had taken and arranged for publication, commencing with the term in which he was called to the bar, and continuing with some intervals through the whole period of his life, were given to the world in the year following his death, under the editorship of his brother-in-law and executor James Clitherow, Esq., with an introduction detailing all the incidents of his career, which from its fairness and impartiality has formed the groundwork of every future memoir. These Reports have not been reprinted, and Lord Mansfield declared that they were not very accurate.

The only literary composition which has been preserved

from Sir William Blackstone's pen, besides those already mentioned, is an investigation of the quarrel between Pope and Addison, published with the author's permission by Dr. Kippis in the "Biographia Britannica;" of which Mr. Disraeli speaks in high terms of praise.

Though thoroughly amiable and cheerful, and much beloved by his family and friends, his heavy features and his contracted brow so contradicted his real disposition that he was considered by the public to be somewhat morose and austere. One of his great excellencies was his rigid punctuality, the neglect of which in others would at once produce that irritation of temper, to which from his bodily infirmities he was sometimes liable.

He left behind him seven children, the second of whom held all the University preferments of his father, and eventually succeeded to the estate at Wallingford, which is still possessed by his representative.

Henry Blackstone, who reported cases from 1788 to 1796, was the judge's nephew; and his Reports were more popular than those of his uncle, three editions having been called for.

## BULLER, FRANCIS.

Just. K. B. 1778. Just. C. P. 1794.

Sir Francis Buller is equally celebrated among both females and males, but not with equal admiration. While he is considered by the latter as one of the most learned of lawyers, he is stigmatised by the former as one of the most cruel of judges; since to him is attributed the obnoxious and ungentlemanly dictum that a husband may beat his wife, so that the stick with which he administers the castigation is not thicker than his thumb. It may perhaps restore him to the ladies' good graces to be told that, though the story was generally believed, and even made the subject of caricature, yet, after a searching inves-

tigation by the most able critics and antiquaries, no substantial evidence has been found that he ever expressed so ungallant an opinion. Had he committed himself so rashly, he would have lost the reputation he enjoyed in Westminster Hall; for neither the Common Law nor the Statute Law of England warrants such brutality; and any husband who, upon the faith of the judge's reputed doctrine, should venture to resort to such a mode of punishment, would infallibly be sentenced to six months' imprisonment.

Francis Buller was of an ancient and renowned Cornish family, the members of which were famous in the senate, in the Church, and in many distinguished posts in the service of the State. One of his uncles was father of Admiral Sir Edward Buller of Trenant Park, who was honoured with a baronetcy, which expired in 1824. Another uncle became bishop of Exeter; and the judge himself had legal blood in his veins, some of his ancestors being recorders of boroughs; and another the daughter of Chief Justice Pollexfen. His mother also was Lady Jane Bathurst, the sister of Lord Chancellor Bathurst, the second wife of his father James Buller, Esq., of Shillingham, who was one of the representatives of the county of Cornwall from 1747 till his death in 1765. Francis was born on March 17, 1746, and being the youngest of the three sons by that lady, was destined to the law. At the age of seventeen he was entered at the Inner Temple on February 3, 1763 and became a pupil of Mr. (afterwards Judge) Ashhurst; under whom he prosecuted his studies with so much energy and success that in 1765 he felt competent to set up for himself. For seven years he was in full practice as a special pleader, and acquired a reputation in that character which ensured him a sufficiency of business when he determined to be called to the bar. His credit was greatly enhanced by the publication in 1767 of a work (said to be founded on collections made by his

uncle Mr. Justice Bathurst) entitled "An Introduction to the Law relative to Trials at Nisi Prius," which was so much esteemed that it went through six editions before his death. The great impetus to his industry was his apparently rash marriage at the age of seventeen with Susannah the only daughter and heiress of Francis Yarde, Esq., and the birth of a son in 1767. Besides supplying a motive for exertion, the comforts of a home withdrew him from the temptations under which so many men succumb.

On being called to the bar in Easter Term 1772 he immediately took a high rank among his colleagues. His assistance and advice were in perpetual requisition, and there was scarcely any case of importance in which he was not engaged. The Reports of Henry Cowper comprehend the period during which he wore a barrister's gown, and they amply show not only the extent of his practice but the excellence of his advocacy. The more general reader will find in the State Trials some few examples of his legal ability. Lord Mansfield, who then presided in the King's Bench soon recognised his genius and promoted his advancement; which was furthered by his uncle Lord Chancellor Bathurst. In 1777, when he had been only five years at the bar, he was made a king's counsel and second judge on the Chester circuit: and when Mr. Justice Aston died in the following year he was appointed on May 6, 1778, to the vacant seat in the King's Bench, being then only thirty-two years of age; Lord Mansfield feeling that he could not have a more competent coadjutor in the labours of his Court, and the lord chancellor being not unwilling to second the recommendation of the chief justice in the advance of his nephew. Lord Mansfield's expectations were fully realised by the effectual assistance he received during the ten years he remained on the bench; in the last two of which, when his health began to decline, he found a most efficient and active substitute in Mr. Justice

Buller, who not only conducted for him the sittings at Nisi Prius, but in the absence of the chief took the lead in Banco, though Judge Ashhurst was his senior. In those two years, in fact, he was little less than chief justice, and in the hope of inducing the minister to make him really so, it is understood that Lord Mansfield delayed his own resignation. Mr. Pitt however from political and other motives would not consent, but appointed Lord Kenyon as Lord Mansfield's successor; giving Mr. Justice Buller the very inadequate compensation of a baronetcy in January 1790. Under Lord Kenyon he remained for six years, and in Easter 1794 he removed into the Common Pleas, where he sat for six years more. Being then prostrated by physical infirmity he arranged with the lord chancellor for the resignation of his seat; but on June 5, 1800, the very day after that arrangement and before it could be effected, he died at his house in Bedford Square, at the age of fifty-four; and was buried unostentatiously in St. Andrew's, Holborn.

Thus terminated at an age, which had been the commencement of many a judicial life, the career of a judge who had sat on the bench with distinguished merit no less than twenty-two years. No one ever denied his extraordinary legal capacity, though the correctness of some of his decisions might be disputed. Not only was he the recognised substitute of his celebrated chief in his own court, but he won the admiration of that great grudger of praise, Lord Thurlow, who had so great a dependence on him, that he frequently, when obliged or inclined to be absent, appointed him to preside in his place in the court of Chancery, where his decrees excited the rough eulogy of his principal. Yet with all his "industry, sagacity, quickness, and intelligence," and notwithstanding his urbanity to the bar, he was not a popular judge. He was considered arrogant in his

assumption of superiority, hasty in his decisions and decrees, and, which pressed harder upon him in public estimation, prejudiced, severe, and even cruel in criminal trials. But his character has outlived all detraction, and at the present day, due allowance being made for occasional mistakes and shortcomings, there are very few deceased judges whose decisions, whose opinions, or whose doubts are received with more respect. Even in his own day his penetration and impartiality were so far recognised, that it was said of him that though no person, if guilty, would choose to be tried by him, all persons, if innocent, would prefer him for their judge. The personal peculiarities or the momentary petulances of such a man are not worthy of remark, unless they disgrace his daily life, or impede the course of justice. If Buller was sometimes hasty, he was ever prompt to acknowledge where he was in the wrong; and though charged with "an appetency for political intrigue," we do not find that it interfered with his administration of justice. His amiable temper beamed through his handsome features, and his encouragement and patronage of the young and diffident members of the bar were rendered more valuable by the courtesy with which they were administered. Among those he befriended were the eminent names of Fearne and Hargrave, and the future chief justices, Gibbs, Law, and Abbott, the latter of whom, when tutor to his son, he recommended to adopt the law.

His only son, in compliance with the will of his mother's brother, assumed the additional surname of Yarde; and his grandson, the third baronet, was raised to the peerage in 1858, by the title of Baron Churston in the county of Devon.[1]

[1] Townsend's Judges, i. 1.

## BURLAND, JOHN.

B. E. 1774.

THE family of Burland was for a long series of years settled at the manor of Steyning in the parish of Stoke Courcy in the county of Somerset. The judge's father was also named John Burland, and his mother was Elizabeth the daughter and at length the heiress of Claver Morris of Wells, M.D. Their son was educated at Balliol College, Oxford, from 1740 to 1743, when he entered the Middle Temple, and was called to the bar in January 1746. The next year he married Letitia, daughter of William Berkeley Portman, Esq., of Orchard Portman, by Anne the daughter of the Speaker, Sir Edward Seymour.

In Hilary Term, 1762 he was honoured with the degree of the coif, and in Easter 1764 was appointed king's serjeant. After he had held the recordership of Wells for some time with great reputation, the corporation thought fit to remove him; but on application to the court of King's Bench in 1767, a peremptory mandamus was ordered to be made out for his restoration. On the death of Mr. Baron Adams he was constituted a baron of the Exchequer on April 8, 1774; but had little opportunity of displaying his judicial powers. Within two years, by the bursting of a blood-vessel in his brain, he died on March 28, 1776; and was buried in Westminster Abbey. He left a son, who became member of parliament for Totnes.[1]

## BURROUGH, JAMES.

JUST. C. P. 1816.

*See* under the Reign of George IV.

## CAMDEN, LORD. *See* C. PRATT.

[1] Collinson's Somerset, i. 217; Gent. Mag. xxxvii. 91.

## CHAMBRÈ, ALAN.

B. E. 1799. Just. C. P. 1800.

The family of De la Chambrè, De Camera, or Chaumberay, was of Norman origin, and the name of one of its members occurs on the roll of Battle Abbey. Hugh De Chambrè, or De Camera, in the reign of Henry III., settled in Westmorland, where his descendants have flourished in an uninterrupted lineal succession till the present time. Halhead Hall in the parish of Kendal was acquired by them by marriage in the reign of Henry VIII., and still remains in their possession. Four successive generations became eminent in the law; this judge's great-grandfather and grandfather (both named Alan) having been benchers of the Middle Temple, and the latter recorder of Kendal, to which office his son, Walter Chambrè, was elected on his father's resignation. The judge was the eldest son of this Walter, by his marriage with Mary, daughter of Jacob Morland of Capplethwaite Hall in the same county.

Alan Chambrè was born on October 4, 1739, and of course was destined to the profession which his progenitors had pursued. With this view, reviving an ancient custom which had been long discontinued, he first resorted to an inn of Chancery, and paid the customary dozen of claret on admission into the society of Staple Inn. He was a member of that society in 1757, and his arms are emblazoned on a window in the Hall. From this inn he removed to the Middle Temple in February 1758, but transferred himself to Gray's Inn in November 1764, and was called to the bar in May 1767. The diligence with which he had devoted himself to his studies was proved by the success which he achieved; and his independent and upright conduct and

amiable disposition may be estimated by his popularity among his colleagues. He selected the northern circuit and soon became one of its leaders. In June 1781 he was chosen bencher and in 1783 treasurer of his inn; and in November 1796 he was elected recorder of Lancaster. On the resignation of Mr. Baron Perryn in 1799, he was named as his successor; the announcement of which was received by the circuit bar with "acclamations quite unprecedented." It was of course necessary, in order to enable him to be appointed, that he should be made a serjeant; and as Baron Perryn's retirement took place in vacation, and serjeants could not be called except in term, a short Act of Parliament was passed on July 1, 1799, authorising, for the first time, a serjeant to receive his degree in the vacation, so that the vacant office might be immediately granted to him. In June of the following year he was removed from the Court of Exchequer to the Common Pleas on the death of Mr. Justice Buller. In that court he remained till his resignation in Michaelmas vacation, 1815; when, having filled the judicial office for more than fifteen years, he resigned his seat and became entitled to a retiring annuity of 2000*l.* under the Act of Parliament passed in the year in which he was appointed.

In the exercise of his functions he merited and received universal praise both for his learning and urbanity. Lord Brougham alludes to him in his sketch of Lord Mansfield as "among the first ornaments of his profession and among the most honest and amiable of men." So extremely careful was he of doing anything that could by possibility be misinterpreted, that on one occasion he declined the invitation to a house, at which the judges had been accustomed to be entertained during the circuit, because the proprietor was defendant in a cause at that assize.

Sir Alan lived seven years after his retirement, and, dying at Harrogate on September 20, 1823, was buried in the

family vault at Kendal. He was never married and was succeeded in his estates by his nephew Thomas Chambrè.[1]

## CLARKE, THOMAS.

M. R. 1760.

*See* under the Reign of George II.

The Middle Temple books record the admission into that society on March 17, 1689, of "Thomas Clarke, son and heir of Sir Edward Clarke of the parish of St. Foster's, London." If this student be the future master of the Rolls, his father was sheriff of that city in 1690 and lord mayor in 1697. That he was extraordinarily young when he was admitted is evident from his not being called to the bar till sixteen years after, on February 8, 1705. He was elected a bencher in 1723, and autumn reader in the following year.[2] But, from the length of time between these dates and the appointment of Sir Thomas Clarke as master of the Rolls, great doubt has been naturally entertained whether the above entry applies to him; the more especially as Mr. Nichols states in his "Literary Anecdotes" (vol. viii. p. 507) that he was "generally supposed to be a natural son, and as having no relations."

Of Sir Thomas's early life little is known, beyond his being educated at Westminster School, and the performance of his forensic avocations. That he was intimate with the second Earl of Macclesfield, and was a fellow of the Royal Society, devoting himself to philosophical pursuits, appears from a letter of Lord Hardwicke's:—and that he was reputed to be deep read in Roman law, is apparent from the description of him in the "Causidicade" as a supposed candidate for the vacant solicitor-generalship in 1742:

[1] 8 Term Rep. 421–587; 4 Maule and Selwyn, 444; Lord Brougham's Hist. Sketches (1845), i. 144.

[2] Middle Temple Books; Maitland's London, 1196, 1204.

"Then Cl—ke, who sat snug all this while in his place,
Rose up and put forward his ebony face:
'I have reason,' quo' he, 'now to take it amiss,
That your Lordship ha'n't call'd to me long before this.
If the old Civil Law, on which I would build,
Is in so much neglect and indifference held,
Let your Common Law Dunces go on and apply,
Quoting chapter and sect. insipidly dry!
A student of moderate parts and discerning,
With intense application may master such learning:
But I, as a genius, the office demand,
That office my qualifications command!'
'Who contemns Common Law?' quo' my lord, 'there are few,
But such who are ignorant of it, like you;
Very little's the use of your Law of the Romans,
Save abroad, or in Scotland, or our Doctors' Commons;
By whatever person this office is fill'd,
Must in Common Law learning be very well skill'd.'"

It is probable that his advance to the post of king's counsel took place before this date. In 1747 he entered parliament as member for St. Michael's; and in 1754 he was elected for Lostwithiel, both Cornish boroughs. From anything that appears he was a silent member; and he had no seat in the House in 1761.

On the death of Sir John Strange in 1754, Mr. Clarke was immediately pointed out both by Lord Hardwicke and the Duke of Newcastle to succeed him as master of the Rolls; to which place he was appointed on May 29, and was thereupon knighted. The duke calls him a very deserving man, and intimates that he was greatly before his competitors in the court of Chancery. He held the office with great credit a few months beyond ten years; dying on November 13, 1764. He was buried in the Rolls Chapel; and by his will he left, among other legacies, 30,000*l.* to St. Luke's Hospital, and appointed the Earl of Macclesfield his residuary legatee, his whole property being estimated at 200,000*l.*[1]

[1] Harris's Lord Hardwicke, ii. 366, iii. 12; Pat. 27 Geo. II. p. 4, m. 2; Gent. Mag. xxxiv. 546.

## CLIVE, EDWARD.

Just. C. P. 1760.

*See* under the Reign of George II.

Edward Clive was the nephew of George Clive, the cursitor baron of the Exchequer in the last reign, being the eldest son of his brother, Edward Clive of Wormbridge in Herefordshire, by Sarah, daughter of — Key of the city of Bristol, merchant, and was born in 1704. He was called to the bar by the society of Lincoln's Inn in 1725, after the usual seven years' probation; but little more is recorded of him than that he was returned to parliament in 1741 as member for St. Michael's in Cornwall, for which he sat till his elevation to the bench, as a baron of the Exchequer, in April 1745, in the place of Sir Lawrence Carter. He remained in that court nearly eight years without the honour of knighthood, which he did not receive till January 1753, when on the death of Mr. Justice Burnet he was removed into the Common Pleas. He sat there for seventeen years more, thus extending his judicial service to twenty-five years; at the end of which he resigned in February 1770. The pension of 1200*l.* then granted to him he enjoyed for little more than a year, dying at Bath on April 16, 1771.

He married twice. His first wife was Elizabeth, daughter of Richard Symons, Esq., of Mynde Park in Herefordshire; and his second was Judith, the youngest daughter of his cousin the Rev. Benjamin Clive, a son of his uncle Robert Clive of Styche in Shropshire. The latter lady survived him more than twenty-five years. Leaving no issue by either marriage, he bequeathed his estate at Wormbridge, which his father had purchased from his elder brother Robert, to Robert's great-grandson; in the possession of whose family it still remains.

The judge's brother George was the husband of that eminent actress, who was unrivalled in her particular walk.[1]

## DALLAS, ROBERT.

JUST. C. P. 1813. CH. C. P. 1818.

*See* under the Reign of George IV.

## DAMPIER, HENRY.

JUST. K. B. 1813.

THE Le Dampierres, anciently Counts of Flanders, are the reputed ancestors of this amiable judge, who was not more distinguished for his learning in the law, than for his eminence in "literis humanioribus" and in general attainments. His father, the Rev. Thomas Dampier, a native of Somersetshire, from being one of the masters at Eton College was raised to the deanery of Durham, and having married twice was most fortunate in his family. Thomas, the elder of his two sons by his first wife, Anne Hayes, became successively Bishop of Rochester (1802) and Ely (1808); and John, the younger, held a canonry in the latter cathedral. Henry, his only son by his second wife, Frances Walker, by attaining the high rank of a judge in Westminster Hall, claims a notice in these pages.

Henry Dampier was born on December 21, 1758, at Eton, and having received his early education there, was elected to King's College, Cambridge, in 1775. He took his degree of B.A. in 1781, and of M.A. in 1784; in the interim proving his assiduity and showing his proficiency by gaining the members' prizes both in 1782 and 1783. Preferring the legal to the clerical profession, for which he was at first intended, he entered the Middle Temple in 1781, and was called to the bar in the customary routine. During the

[1] Collins' Peerage, v. 545; Blackstone's Rep. ii. 681; Gent. Mag. xv. 221, xxiii. 53, 100, xli. 239, lxvi. 709.

next thirty years he pursued the rugged paths of the law, content with the high character he obtained by his industry and intelligence as an acute counsel, and with the esteem and admiration he acquired by his obliging disposition and his classical as well as legal learning, made more attractive by the brilliancy of his conversation and his wit. Not seeking the addition either of a coif to his wig or a silk gown to his back (honours not then so lavishly bestowed as in the present day), he shone as a junior, whose advice might be surely depended on, and whose advocacy might be safely trusted; and he was marked out in Westminster Hall as a future judge long before the prophecy could be fulfilled.

The high judicial prizes are "few and far between," and the longevity of the then occupants of the bench prevented them from being often drawn. But at last Mr. Justice Grose retired, and Mr. Dampier was appointed his successor in the King's Bench on June 23, 1813, when he was knighted. His career as a judge was doomed to be shorter than any who had lately preceded him; but it was long enough to cause the sincerest sorrow for its termination, not only to all his ermined brethren, but to the whole bar who practised under him. Ere he had graced the bench for two years and a half he died on February 3, 1816. Few have left a name so universally respected.

He married in 1790 Martha, daughter of the venerable John Law, archdeacon of Rochester. She and five of their children survived him; one of whom, John Lucius Dampier, was recorder of Portsmouth, and became vice-warden of the Stannaries in Cornwall, the duties of which he performed most exemplarily till his early death in 1853.

## DE GREY, WILLIAM, *afterwards* LORD WALSINGHAM.

CH. C. P. 1771.

THE root of this family can be traced to the twelfth century, and that branch of it to which the judge belonged possessed, with other large estates, the manor of Merton in Norfolk for above four hundred years before he came into the world. His father was Thomas De Grey, who represented that county in parliament; and his mother was Elizabeth, daughter of William Wyndham of Felbrigge. William was their third son, and was born at Merton on July 7, 1719. Destined to pursue the law as a profession, he received his education at Christ's College, Cambridge; and entering the Middle Temple in January 1738, he was called to the bar on November 26, 1742.

After sixteen years he attained the distinction of king's counsel to George II. in 1758; and in September 1761 that of solicitor-general to the queen of George III. In the latter year he was elected member of parliament for Newport in Cornwall, and in December 1763 was appointed solicitor-general to the king. From this he rose in August 1766 to the post of attorney-general, succeeding the Hon. Charles Yorke; when he received the honour of knighthood. He was also comptroller of the first-fruits and tenths.

His advance to the honours of his profession, and his attainment of its highest forensic dignity, without apparent parliamentary interest (for hitherto he is not reported as taking any active part in the House of Commons), are evidence that his rise was obtained by his eminent legal ability. He filled the office of attorney-general for nearly five years; and in the parliament following his appointment had the honour of being elected by three different constituencies; at first for Newport and Tamworth, selecting the former; and afterwards, in January 1770, for the university of Cam-

bridge, when the Hon. Charles Yorke accepted the Great Seal. In that parliament he contended against the legality of Mr. Wilkes's return for Middlesex; and on all other occasions strenuously supported the measures of Lord North's ministry. On a motion to abridge the power of the attorney-general in filing ex officio informations, he boldly defended himself, and proved that the power was not only constitutional, but, when discreetly exercised, essentially necessary. As solicitor-general he argued ably and ingeniously in favour of the king's messengers acting under the general warrant issued by Lord Halifax; but the real question was artfully avoided by a submission to a formal objection; and as attorney-general he conducted the proceedings against Wilkes, when he surrendered in 1768 after his conviction, on the question of his outlawry; in the various discussions previous to his sentence; and in the writ of error before the House of Lords, by whom the conviction and sentence were confirmed.[1] Though sharing of course the unpopularity with which all the opponents of that demagogue were visited, Sir William De Grey does not seem to have excited any special animosity, but to have been regarded as merely doing his duty as an officer of the Crown.

Early in 1771 Sir John Eardley Wilmot resigned, and Sir William was immediately, on January 25, appointed his successor as lord chief justice of the Common Pleas. One of the first public questions which he had to determine was whether Brass Crosby, the lord mayor of London, should be discharged from the custody of the lieutenant of the Tower, where he had been imprisoned by warrant from the Speaker of the House of Commons; and he wisely decided not to interfere with the privileges of parliament. After presiding over his court for nearly ten years, the failure of his health obliged him to resign in June 1780. In acknowledgment of

[1] Parl. Hist. xvi. 585, 1182, 1194, 1271; State Trials, xix. 1012, 1079, 1146.

his services the king in the following October called him up to the House of Peers by the title of Lord Walsingham. He enjoyed his new honours for little more than six months, dying on May 9, 1781; when he was buried at Merton.

He was a most accomplished lawyer, and of the most extraordinary power of memory. "I have seen him," says Lord Eldon, "come into court with both hands wrapped up in flannel (from gout). He could not take a note, and had no one to do so for him. I have known him try a cause which lasted nine or ten hours, and then, from memory, sum up all the evidence with the greatest correctness."[1]

He married in 1743 Mary, daughter of William Cowper, Esq., M.P. for Hertford, and first cousin of the poet; and by her (who survived him till 1800) he left (besides one daughter) an only surviving son, who succeeded to his title and estates, which are now enjoyed by the fifth baron in succession.[2]

## DENISON, THOMAS.

JUST. K. B. 1760.

SIR THOMAS DENISON was the younger of two sons of Mr. Joseph Denison, an opulent merchant at Leeds. His elder brother, William, of Ossington Hall, in Nottinghamshire, was the grandfather of the Right Honourable John Evelyn Denison, speaker of the House of Commons since 1857. Sir Thomas was born in the last year of the seventeenth century, and received his legal education at the Inner Temple which he entered in 1718 and in due course was called to the bar. His merits as a lawyer soon procured him a considerable practice, and, without having filled any of the minor offices of the profession, he was pressed to undertake judicial duties. For some time he declined, but at last was prevailed on;

[1] Twiss's Life of Lord Eldon, i. 113.

[2] Collins' Peerage, vii. 519; Blackstone's Reports, 734.

becoming a judge of the King's Bench in December 1741, in succession to Sir Francis Page; and receiving the accustomed honour of knighthood in November 1745, when he joined in the loyal address to the king on the rebellion. After administering justice in that court for more than twenty-three years, his health and his sight failing him, he resigned on February 14, 1765.

He sat under three successive chief justices, Sir William Lee, Sir Dudley Ryder, and Lord Mansfield; the latter of whom had so high an opinion of his learning, and so great an affection for him, that, when he died on the 8th of the following September, he wrote the epitaph on his monument in the church of Harewood in Yorkshire, which, as it describes the character of the judge in the language of one who had the best opportunity of appreciating it, and as it is the only example of that kind of composition from his lordship's pen, is given entire.

"To the memory of Sir Thomas Denison, Knt., this monument was erected by his afflicted widow. He was an affectionate husband, a generous relation, a sincere friend, a good citizen, an honest man. Skilled in all the learning of the common law, he raised himself to great eminence in his profession; and showed by his practice, that a thorough knowledge of the legal art and form is not litigious, or an instrument of chicane, but the plainest, easiest, and shortest way to the end of strife. For the sake of the public he was pressed, and at the last prevailed upon, to accept the office of a judge in the Court of King's Bench. He discharged the important trust of that high office with unsuspected integrity, and uncommon ability. The clearness of his understanding, and the natural probity of his heart, led him immediately to truth, equity, and justice; the precision and extent of his legal knowledge enabled him always to find the right way of doing what was right. A zealous friend to the

constitution of his country, he steadily adhered to the fundamental principle upon which it is built, and by which alone it can be maintained, a religious application of the inflexible rule of law to all questions concerning the power of the crown, and privileges of the subject. He resigned his office February 14, 1765, because from the decay of his health and the loss of his sight, he found himself unable any longer to execute it. He died September 8, 1765, without issue, in the sixty-seventh year of his age. He wished to be buried in his native country, and in this church. He lies here near the Lord Chief Justice Gascoigne, who by a resolute and judicious exertion of authority, supported law and government in a manner which has perpetuated his name, and made him an example famous to posterity."

In the same vault lies his wife, Anne, daughter of Robert Smithson, Esq., who died twenty years after him. In the failure of issue, his estates passed to his wife's grand-niece, who married Edmund the fifth son of Sir John Beckett, Bart. who assumed the name of Denison.[1]

## ELDON, EARL OF. *See* J. SCOTT.

## ELLENBOROUGH, LORD. *See* E. LAW.

## ERSKINE, THOMAS, LORD ERSKINE.

LORD CHANCELLOR, 1806.

THAT only one short year of judicial life should have distinguished an advocate who retained for the long space of twenty-eight years the most prominent place at the British bar, would naturally excite surprise, were it not for the recollection that the party, to which he was attached, was during that period wholly deprived of the power of selecting

[1] Burrow's S. C. 177, 531; Gent. Mag. xv. 612; Holliday's Lord Mansfield, 275.

the law officers of the crown, except for an equally short interval at the beginning of his career, when he was too young and inexperienced to expect promotion. Such was the position of the Hon. Thomas Erskine in 1806, when, without a single interruption from his very first entrance into the forensic arena in 1778, his progress had been one continued march of triumph, he was raised per saltum to the highest office of judicial dignity.

This eminent advocate was the youngest of three sons of Henry David, Earl of Buchan, by Agnes daughter of Sir James Steuart, Bart., the eldest of whom succeeded to his father's title, and the two others, Henry and Thomas, became equally distinguished for their extraordinary talents, the former being twice lord advocate of Scotland, in 1783 and 1806, and the latter earning honours in England which are now to be recorded.

Thomas Erskine was born at Edinburgh on January 21, 1750, and received his education at the High School of Edinburgh and the university of St. Andrew's, the very restricted income of the earl his father forbidding any other advantage. In 1764 he left his native country as a midshipman in the Tartar, a ship of war commanded by Lord Mansfield's nephew, Sir John Lindsay, and during the four years he remained at sea he visited North America and the West Indies. Not being able to obtain the promotion he expected he retired in 1768 from the service, and entering the army in September of that year, as an ensign in the Royals or First Regiment of Foot, attained his lieutenancy in April 1773. While yet an ensign in 1770, and when little more than twenty years of age, he married Frances, daughter of Daniel Moore, Esq. M.P. for Marlow, and spent the next two years with his regiment at Minorca, devoting his leisure hours to English literature with so much avidity that there was scarcely a passage in Shakspeare, Milton,

Dryden or Pope, which he could not recite from memory. He used to relate that while in Minorca he not only read prayers to the regiment, but also composed and preached two sermons.

Returning to England in 1772 his agreeable manners and pleasant vivacity soon procured him access to the society of the metropolis, among the distinguished members of which are the names of Mrs. Montagu, Jeremy Bentham, Dr. Johnson, Boswell, Cradock, and Sheridan. He also commenced authorship in a pamphlet "On the prevailing abuses in the British army," which had a considerable circulation. After serving in the army for seven years, he saw too palpably that without interest that profession would not secure a provision for his increasing family; and he could not but feel that his talents were more likely to be productive in a wider field for their exercise. Resolving, therefore, to enter the legal profession (in which he was not discouraged by Lord Mansfield, who paid him some attention at an assize town) he was admitted a member of Lincoln's Inn on April 26, 1775, and sold his lieutenancy in the following September. His next step was to be matriculated at one of the universities in order that by taking his degree his time of legal probation should be shortened from five to three years. With this object he entered Trinity College, Cambridge, on January 13, 1776, as a nobleman's son, which entitled him to a Master of Arts degree in two years without examination. This did not prevent him from striving for and obtaining the college prize for English declamation, the harbinger of his future fame. His degree was conferred in June 1778, and on July 3 he was called to the bar.

During the interval between his matriculation and his call, he kept his terms both at Cambridge and Lincoln's Inn, dividing his time between literary and legal studies. For the latter purpose he placed himself under the instruction of

Sir Francis Buller, and afterwards of Sir George Wood, both subsequently raised to the bench; and by steady application gained that knowledge of the principles of the law, and that mastery of the intricacies of special pleading, so necessary for his future success. He also attended a debating society in order to obtain fluency and confidence, and to accustom himself to the sound of his own voice. His circumstances were so straitened during this period that Jeremy Bentham remarks on the shabbiness of his dress; and he himself acknowledged, and indeed vaunted, that his family were usually fed on cow-beef and tripe, and that when he was called to the bar he was almost reduced to his last shilling. But his sanguine disposition and his courageous self-reliance supported him through all his difficulties.

No sooner was he called to the bar, than there was a propitious change in his circumstances. From being almost penniless he became suddenly affluent; and though a perfect novice in Westminster Hall, he was at once recognised as one of its brightest ornaments. One happy accident followed by another gave him the fortunate opportunity. Happening to dine in company with Captain Baillie, against whom a rule to show cause in the following Michaelmas Term why a criminal information should not be filed for a libel on the officers of Greenwich Hospital, had been recently obtained, Erskine, in ignorance that the captain was present, expressed himself freely on the doomed pamphlet, which was then the general subject of conversation. He spoke with so much warmth and indignation against the tyranny and abuses imputed to Lord Sandwich, first Lord of the Admiralty and the officers of the Hospital, that the captain, inquiring who he was, determined to employ him as his advocate. Erskine had not then taken his seat in court and his first retainer and first brief was as counsel for the defence of Captain Baillie. But still as he was the last of five barristers retained

on that side he could not expect to have any opportunity of distinguishing himself; but again fortune favoured him. His four seniors expended so much time in their arguments, and Mr. Hargrave was obliged by illness so often to interrupt his address, that at the close of it, Lord Mansfield adjourned the court. Erskine therefore had to commence the proceedings on the next morning, and in a speech as powerful and effective as was ever heard in court, he exposed and stigmatised the practices of Lord Sandwich and the officers of the Hospital, with so much eloquent invective, that the rule was dismissed, and Erskine was triumphant. The effect of this brilliant oration was so great that retainers flowed in upon him from all quarters; and from that time forward there was scarcely a cause or a trial of importance in which he was not engaged. This first appearance occurred on November 28, 1778, and as a consequence of his success he was employed in the following January to defend Lord Keppel, on the charges brought against him by Sir Hugh Palliser. The trial lasted thirteen days, and though from the restricted privileges of a counsel at a court-martial he was not allowed to examine witnesses nor to make a speech in defence, he suggested the questions to be put, and composed the address which Lord Keppel was to deliver. To the excellence of that address his noble client attributed his triumphant and unanimous acquital, testifying his gratitude by the noble present of 1000*l.*

Though acquiring in less than a year the lead over many an elderly aspirant, his success was productive of no jealousy or ill will. His manners were so pleasing and his bearing so unpretending that he soon became a universal favourite, and his competitors willingly submitted to the superiority of his genius. In his first year he was employed as counsel against a bill in parliament to vest the monopoly of printing almanacks in the two Universities and the Stationers' Com-

pany; and to his eloquence was ascribed the rejection of the measure. Soon after he had an opportunity of exhibiting his extraordinary powers in the defence of Lord George Gordon on a charge of high treason connected with the riots of 1780. His speech on this occasion by the clearness of its arguments, the force of its reasoning, the eloquence and energy of its language, the boldness of its exposures and the art which it displayed in applying the evidence to the principles it advocated, raised his fame still higher, and no doubt produced the acquittal of the prisoner. His business became so extensive that he found it necessary to refuse to hold junior briefs; and as none could be employed with him except those who had been called after him, numerous were the barristers senior to him who were deprived of their former share of the business of the court. The only remedy for this inconvenience was by giving him the seniority of a silk gown. He accordingly received a patent of precedence in May 1783, before he had been five years at the bar.

The coalition ministry of which his Whig friends formed a part, had in the previous March come into power, and being naturally desirous of the assistance of one so much famed for his eloquence, procured his election for Portsmouth in the following November. He made his first speech on the introduction of Mr. Fox's India bill, and continued to support it in its progress through the House. When the rejection of that bill by the Lords caused the dismissal of his friends from the government, he took a prominent part in the vexatious attempts, in the remainder of the session, to oust Mr. Pitt the new minister. The natural consequence was that, with the dissolution of that parliament in March 1784, Erskine was made one of "Fox's Martyrs," and his senatorial life suffered an interruption of more than six years. In truth he had somewhat disappointed public

expectation. His eloquence was less suited to the senate than to the forum; and though he made some effective addresses, he was considered to have been cowed by the superior powers of Mr. Pitt, against whom he was indiscreetly put in collision.

During this interval he devoted himself to his profession, in the pursuit of which he increased his fame and fortune. Besides his command of business in Westminster Hall and on the Home Circuit he was called by special retainer to prosecute or defend very many important causes in other parts of the kingdom. Among those of a more public nature was his defence of Dr. Shipley, the Dean of St. Asaph, for publishing a tract by Sir William Jones, when, in a contest with his former master Mr. Justice Buller, he boldly insisted on the verdict of the jury being taken in the very words they used; and afterwards in a speech which Charles Fox declared to be the finest piece of reasoning in the English language, contended for the power and right of the jury to determine whether the publication complained of was or was not a libel. Though the judgment was afterwards arrested the judges decided against him on this question; but his argument was the death-blow to their doctrine, and led to the enactment of Mr. Fox's libel bill in 1792, which fully established the right of juries to give a general verdict on the whole matter in issue. At this time Mr. Erskine had regained his seat in parliament for his old borough, and had the satisfaction of seconding Mr. Fox's motion on bringing in the bill. At this time also he was attorney-general to the Prince of Wales who on the formation of his establishment had nominated him to that office. Another triumph in libel cases was in his inimitable defence of Stockdale, prosecuted for publishing Logan's pamphlet against the managers on Hastings' trial, when his forcible argument for free discussion, and his impressive introduction of the celebrated

illustration of the Indian chief, produced so enthusiastic an effect on the auditory and induced the jury, even before the libel bill was passed, to acquit the defendant.

When the French Revolution electrified the world, a schism arose among the Whigs, many of whom, led by Burke, supported Government in its efforts to counteract the spread of revolutionary principles in this country. The Prince of Wales took the alarm with this section, but Erskine, though his royal highness's attorney-general, and designed for the same office to the Crown had the regency been established, had the spirit and independence to join the other section, led by Fox, to whom throughout his life he zealously adhered. Opposing in parliament all the extra measures introduced for the suppression of sedition he thus became obnoxious not only to the Government, but also to many who imputed to him a tendency to democratical principles. Happening then to be retained for the defendant in the prosecution of Paine's "Rights of Man," attempts were made to induce him to refuse the brief; and on his firm refusal to do so, upon the principle that he was bound by professional etiquette to defend any man for whom he was retained, he received a message from the prince, unwillingly requesting him to resign his office, which he accordingly did in February 1793.

This episode of unpopularity was of short duration. In the next year he rose to the highest pitch of public admiration by the noble stand he made against the doctrine of constructive treason in his defence of Hardy, Horne Tooke, and Thelwall, severally indicted for high treason as members of societies professing parliamentary reform, but charged with conspiring to subvert the existing laws and constitution, and thus compassing the king's death. The trial of Hardy lasted eight days, that of Horne Tooke six days, and that of

Thelwall four days, in all eighteen days, and each resulted in an acquittal, produced principally by the wondrous exertions, the powerful reasoning, the eloquence and the tact of their advocate. This triumph was hailed by the general public as the preservation of the constitution from the perils that would have environed it, if the subjects were liable to such proceedings. No further attempt has been since made to impute treason by construction or inference. The applause which Erskine received could scarcely be exceeded; honours flowed in to him from all quarters in the freedom of corporations; and the sale of his portrait and bust was excessive.

For the next twelve years he preserved his undisputed ascendency in the courts, and was engaged for the plaintiffs or defendants in almost every cause. In state trials the defence was generally entrusted to him as the advocate of liberty of speech, and resulted most frequently in verdicts of acquittal. In parliament he was always found on the liberal side, supporting Mr. Fox, and joining him in his temporary secession from the house. He published a pamphlet entitled "A View of the Causes and Consequences of the present War with France," of which no less than thirty-seven editions were called for. In it he made a violent attack on Mr. Pitt, against whom he had a strong animosity, arising, perhaps, from his consciousness of failure in competition with the minister in the senate. On Pitt's resignation in 1801, Mr. Addington offered Erskine the attorney-generalship, which from a doubt of the prince's approval he declined. He however supported that administration till it was superseded in 1804 by the return of Mr. Pitt; but he seldom addressed the house. In the following year the prince revived the office of chancellor to the Duchy of Cornwall, and gave it to Mr. Erskine; and on the renewal of the war he for a time resumed his old profession by becoming colonel of the law association, a corps of volunteers which was familiarly

called "The Devil's Own." It is curious that it should have fallen to his lot soon after to contend for the right of volunteers to resign, when the Government wished to deprive them of that power; but as usual he was triumphant, the judges unanimously deciding that the service was entirely voluntary.

On Mr. Pitt's death in 1806 the Whigs, after an exile from court of more than twenty years, were allowed a temporary taste of the sweets of office; and Erskine was certain to be a partaker. He would have preferred to preside over a common law court, conversant as he was with its rules and practice; but the existing chiefs, Lord Ellenborough and Sir James Mansfield, wisely resisting the temptation of the Great Seal, its possession was given to him on February 7, 1806, as lord high chancellor of Great Britain; and he was at the same time raised to the peerage by the title of Lord Erskine of Restormel Castle in Cornwall, a designation with which the Prince of Wales complimented him as it had been the ancient residence of the Dukes of Cornwall. With whatever feelings of pride he went in state from his house in Lincoln's Inn Fields to take the oaths, or may have welcomed these rewards for his long public services in the cause of liberty, far greater must have been his gratification at the recognition of his private worth and personal character, in the unprecedented address of congratulation which was unanimously voted to him by the whole bar of England. That body might well regret his retirement from its ranks, for never had they, and never could they expect to have, a leader whose hilarity of spirits, whose lively wit, and whose uniform kindness, added to such extraordinary powers, could secure at once their affection and respect.

He commenced his new office in the spirit of liberality. He removed none of his predecessor's officers; nor did he avail himself of the usual source of patronage, by placing

any of his own friends as commissioners of bankruptcy in the room of others whom he must have displaced. Though little acquainted with the rules of equity or the practice of his new court, he had the wisdom to avail himself of the advice of more experienced men; and by his natural quickness of perception, his discretion and caution, he passed through his fourteen months of trial in so satisfactory a manner that only one of his decrees was appealed against, and that one, arising out of Mr. Thelluson's extraordinary will, was affirmed. In the trial of Lord Melville, Lord Erskine presided as chancellor, and acted with that dignity, firmness, and impartiality that excited universal admiration. As a peer of parliament he of course supported the measures introduced by his party, and had the satisfaction to announce the royal assent to the bill for the abolition of slavery. In the summer the death of his friend Mr. Fox was a source of sincere lamentation to him; which was followed in the following spring by the dissolution of the ministry, occasioned by the refusal of George III. to sanction a bill allowing Roman Catholics to hold commissions in the army. Though himself adverse to the measure, he shared in the dismissal, and gave up the Great Seal on April 7, 1807.

In the fifteen years during which he survived his loss of office he very rarely took a prominent part in the politics of the day; but on some occasions he exhibited the same command of argument and oratorical power which had formerly distinguished him. He was remarkable for the interest he took in the brute creation, and had always some favourite by his side. The bill he introduced into parliament to prevent cruelty to animals, after some unsuccessful attempts, eventually became law. When the king's permanent illness necessitated a regency in 1810, Lord Erskine opposed the restrictions on his patron the Prince of Wales, who, in 1815, though he had deserted his old Whig connections, compli-

mented his former chancellor with the green ribbon of the order of the Thistle.

Lord Erskine now amused himself as a man of the world, mixing in all gay societies, and being acceptable to all by his liveliness and wit. His *bon-mots* and his *vers de société* at this time and while at the bar would fill a good-sized volume, and Mr. Townsend in his agreeable memoir has made a happy selection of them. He again ventured his fame by becoming an author on a more extended scale, and published a romance called "Armata;" being a clever allegory, in the manner of Sir Thomas More's "Utopia" and Dean Swift's "Voyage to Laputa," on the politics of England and the customs and manners of London life. It had a temporary popularity and passed through several editions, but from the want of interest in the story it is now almost forgotten.

When the popular tumults and discontent in 1817 led to the introduction of restrictive measures, Lord Erskine appeared again in the political world, and contended against them with all his ancient vigour. He stood boldly and prominently forward also in 1820 in defence of Queen Caroline, although by so doing he opposed his old patron and friend. But, deeming the queen an innocent and injured woman, he cast every personal consideration aside, and throughout the investigation battled on her side, and, when the Bill of Pains and Penalties was withdrawn, he sounded its knell in the last speech he made in parliament. By this independent conduct his favour with the people, by whom he was almost forgotten, was revived, and was exhibited in every shape. His likeness was a treasure universally sought, addresses and municipal freedoms were showered upon him, and public dinners were given to do him honour. One, on which he most prided himself, was that at Edinburgh, which he had not visited since his departure from it as a midshipman in 1764, a period of fifty-seven years. In 1822 he

published a "Letter to Lord Liverpool," in support of the cause of the Greeks, proving that his love of freedom was unabated; and another pamphlet on agricultural distress, his advocacy of increased protection in which is strongly opposed to the principle of free trade that now prevails. His career was now drawing to its close. In the autumn of 1823, as he was proceeding by sea to pay a visit to his brother the Earl of Buchan at Dryburgh Abbey, he was suddenly attacked with inflammation in the chest. On landing he went direct to Ammondell, near Edinburgh, where the widow of his deceased brother Henry resided, and where the Earl of Buchan joined him. There he breathed his last on November 17, 1823; and his remains lie in the family burying-place at Uphall in the county of Linlithgow.

He was then within two months of attaining the age of seventy-four; having spent eleven years of his youth in the naval and military service, and having filled during the last forty-five years of his life so prominent a position in the public eye, that the slightest deviation from the direct path was certain of observation. From the first to the last of that lengthened period he steadily adhered to the party, whether in or out of power, to whose political principles he had attached himself. No temptations could induce him to swerve from them a moment. He ever continued, as he began, a sincere friend of the constitution, and, as such, a firm supporter of the prerogative of the crown, and a resolute and undaunted defender of the rights of the people. In the eloquent words of Lord Brougham, "if there be yet among us the power of freely discussing the acts of our rulers; if there be yet the privilege of meeting for the promotion of needful reforms; if he who desires wholesome changes in our constitution be still recognised as a patriot, and not doomed to die the death of a traitor; let us acknowledge with gratitude that to this great man, under heaven, we owe this

felicity of the times." In his public character there was not a stain; and in his social intercourse with the world there was a charm that enhanced the admiration of those who agreed with him in politics, and which neutralised the hostility of those who differed from him. The courtesy of his manners, the cheerfulness of his disposition, the geniality of his wit, his "generous impulses and honourable feelings," and the wonderful power of his eloquence, live almost as vividly among the few who now survive, as they impressed those who at his death erected a statue to his memory in Lincoln's Inn Hall. Against merits such as these, the only failing that is suggested is a charge of egotism and vanity, with too great a tendency to introduce himself and the incidents of his life upon all occasions. Let those who laugh at him on that account ask themselves whether, if they had founded their fortunes in the same surprising manner, they could themselves have altogether abstained from self-glorification. It was laughed at, and pardoned, even during his life, and now will be no longer remembered, when looking at his statue, and studying the noble eloquence of his speeches; a collection of which were published under his own supervision.

Of the incidents of his private life there are few records. If they were mixed with some frailties, we may ask what mortal is exempt from them? Whatever they were they may be designated by the words of that rigorous moralist, Lord Kenyon, "blots in the sun." The great fortune which he must have acquired by his forensic success he lost by unfortunate speculations in Transatlantic funds, and by the purchase of an estate in Sussex which produced nothing but brooms. So that at last he was obliged to part with his beautiful seat at Hampstead, and live upon the retiring allowance of chancellor.

He lost his first wife, after a union of thirty-five years, in

December 1805, just before his attaining the peerage. By her he had nine children; four daughters and five sons. Of the latter the eldest died young; the second succeeded his father, and his son is now the grandfather's representative in the House of Lords; the third, Henry David, became dean of Ripon; the fourth, Thomas, will appear in a future page as a judge of the Common Pleas; and the fifth, Esme Stuart, lieutenant-colonel and deputy-adjutant-general at Waterloo, attracted the approving notice of the Duke of Wellington by his gallantry. He was fearfully wounded at that great battle, and died in his voyage to Ceylon with a similar appointment. By his second wife, Miss Mary Buck, Lord Erskine also left issue. His brother the Earl of Buchan dying without issue was succeeded in that title by the son of Lord Advocate Henry Erskine.[1]

## EYRE, JAMES.

B. E. 1772. CH. B. E. 1787. COM. G. S. 1792. CH. C. P. 1793.

SIR JAMES EYRE was a descendant of the old Wiltshire family to which the three judges already noticed belonged, but it is uncertain of what branch of it. His great-grandfather was of the medical profession, and died mayor of Salisbury in 1685. Dr. Thomas Eyre, Sir James's brother, was a canon in the cathedral of that city. The judge was born in 1733 and his father is described in the Lincoln's Inn books as Mr. Chancellor Eyre. Having received his classical education first at Winchester and then at Oxford he commenced his legal studies at Lincoln's Inn in November 1753; but two years after removed to Gray's Inn, by which society he was called to the bar in 1755. He purchased the place

[1] Lives, by Roscoe, Townsend, and Lord Campbell; Lord Brougham's Historical Sketches; Law and Lawyers; State Trials, vols. xxi. to xxix.; Parl. Hist. vol. xxiv. et seq.

of one of the four city pleaders of London, and was for some time little known beyond the Lord Mayor's and Sheriff's Courts. In them however his attendance was so regular, his manners so good, and his appearance so grave, that Sir William Moreton the recorder becoming too old for active duties proposed him in February 1761, as deputy; which situation he filled till Sir William's death so much to the satisfaction of the corporation, that on that event occurring in April 1763 he was appointed recorder, being then scarcely thirty years of age.

This gave him a certain precedency in the courts at Westminster, where his knowledge and abilities soon procured him a considerable practice. In the December of that year he was engaged as second counsel for John Wilkes in the action against Mr. Wood for entering into the plaintiff's house, and seizing his papers under a general warrant from the secretary of state. Though he acted in this case with great energy and spirit as thinking that it affected the liberty of the subject, yet, when a few years after, in 1770, the corporation, joining in the political distractions excited by the cry of "Wilkes and Liberty," and the call for a new parliament, voted a remonstrance to the king, the recorder would not attend on its presentation; but on another address in harsher terms being voted, he boldly protested against it as a most abominable libel, and again refused to accompany the corporation to the palace. This was the occasion when Lord Mayor Beckford is supposed to have replied to his majesty in the speech that appears at the foot of his statue in Guildhall; but the language of which is said to have been subsequently composed by Horne Tooke. The common council of course resented their recorder's resistance and voted that he should no more be advised with or employed in the city affairs, he "being deemed unworthy of their future trust and confidence." But the court of St. James's looked upon his

conduct in a different light, and took an early opportunity of rewarding his loyalty, by raising him to the bench of the Exchequer in October 1772; when he was knighted. On resigning the recordership he received the thanks of the court of Aldermen for the many eminent services he rendered the public, and was presented with a piece of plate with the city arms engraved thereon, as a grateful remembrance from the court for his faithful discharge of his duties.

After sitting in the Exchequer as a puisne baron for nearly fifteen years, he was raised to the head of it on January 26, 1787, on the resignation of Chief Baron Skinner; and when Lord Chancellor Thurlow was removed in 1793, he was appointed chief commissioner of the Great Seal, an office which he held for seven months from June 15 to January 28, in the following year. On retiring from the Seal he was promoted to the chief justiceship of the Common Pleas, vacated by the new chancellor, Lord Loughborough; and at the end of the next year he was entrusted with the arduous duty of presiding at the memorable trials of Hardy, Horne Tooke, and Thelwall, for constructive high treason. These trials lasted fourteen days, and throughout them he acted with the greatest patience and impartiality, but in the opinion of many, with too great forbearance to the irregularities of Horne Tooke. In his summing up of the evidence in the different cases he carefully described the principles of the law, and in the most fair and unexceptionable manner explained the bearings of the evidence upon the charges. The result was the acquittal of all the prisoners; and the same verdict was given in 1796 in another trial before him of Crosfield and others for high treason in conspiring to make an instrument from which to shoot a poisoned arrow at the king.[1]

With an extensive knowledge of law he united the greatest judicial qualities; and to the unbiassed integrity of the judge

[1] State Trials, iv. v. vi.

was joined a quickness of apprehension and a natural sagacity and candour that secured to him the respect and esteem as well of his brethren on the bench, as of the members of the bar, whom he never interrupted in their arguments, and towards whom he preserved an invariable and unaffected courtesy. He presided over the Common Pleas six years and a half; and died on July 6, 1799, at his residence, Ruscombe in Berkshire, having filled a judicial seat for little short of twenty-seven years.

## FOSTER, MICHAEL.

Just. K. B. 1760.

*See* under the Reign of George II.

This amiable judge was of legal descent, both his father and grandfather being attorneys in the town of Marlborough with the reputation, eminently deserved, of being honest lawyers. He was born on December 16, 1689, and after attending the free school at Marlborough entered Exeter College, Oxford, in May 1705. In May 1707 he was admitted a student at the Middle Temple, by which society, after studying for six years, he was called to the bar in May 1713. In 1720 he published "A Letter of Advice to Protestant Dissenters," to which class his family belonged. Little known in Westminster Hall, he pursued his profession principally as a provincial counsel, first in his native town, and then at Bristol, to which city he removed after his marriage in 1725 with Martha, daughter of James Lyde, of Stantonwick in its neighbourhood. In 1735 he committed to the press a learned tract entitled "An Examination of the Scheme of Church Power, laid down in the Codex Juris Ecclesiastici Anglicani," which went through several editions, and of course led to a controversy on ecclesiastical law. In August of the same year he received the important appointment of recorder of Bristol; and to give dignity to that

office he was included in the call of serjeants in the following Easter Term.

In his character of recorder several very important questions came before him. Among others was the right of the city of Bristol to try capital offences committed within its jurisdiction; and the legality of pressing mariners for the public service. The former arose in 1741 in the case of the atrocious murder of Sir Dineley Goodere by his brother Captain Goodere, who was convicted, and the city authority fully established. The latter was the case of Alexander Broadfoot, indicted in 1743 for the murder of Cornelius Calahan, who was killed in an attempt to press the prisoner. On this occasion the recorder delivered a long opinion in support of the legality of impressment, but directed the jury to find Broadfoot guilty of manslaughter only, because Calahan had acted without any legal warrant.[1]

But soon Mr. Serjeant Foster was transferred to a more extended sphere of usefulness. On April 22, 1745, by the recommendation of Lord Chancellor Hardwicke, he was sworn in as a judge of the King's Bench in the place of Mr. Justice Chapple, and knighted. For the long period of eighteen years, during which he sat in that court, he maintained the high judicial character he had established as recorder of Bristol. He was equally distinguished for his learning, his integrity, his firmness, and his independence. Three of his contemporaries who practised under him and afterwards gained eminence as judges have given testimony of his excellence. Lord Chief Justice De Grey, in the case of Lord Mayor Brass Crosby, says of him "he may truly be called the Magna Charta of liberty of persons as well as of fortune."[2] Sir William Blackstone alludes to him as "a very great master of the crown law;"[3] and Lord Thurlow,

[1] State Trials, xvii. 1003, xviii. 1323.

[2] 3 Wilson, 203.

[3] Blackstone's Comm. iv. 2.

in a letter written in 1758, describes his spirited conduct in the trial of an indictment for a nuisance in obstructing a common footway through Richmond Park.[1] The general impression of his disposition may be collected from the passage in Churchill's Rosciad:—

> "Each judge was true and steady to his trust,
> As Mansfield wise, and as old Foster *just*."

He died on November 7, 1763, and was buried in the church of Stanton Drew.

Besides the works mentioned above he published in the year before his death his Report of the Proceedings on the Commission for the Trials of the Rebels in 1746 and other Crown cases, in which the doctrines of the criminal law are very learnedly discussed. It is a work of very high authority; and two subsequent and enlarged editions have been issued under the superintending care of his nephew Michael Dodson, Esq., who was also author of a memoir of the judge's life, from which much has been extracted in the present sketch.

## GARROW, WILLIAM.

B. E. 1817.

*See* under the Reigns of George IV. and William IV.

## GIBBS, VICARY.

Just. C. P. 1812. Ch. B. E. 1813. Ch. C. P. 1814.

This eminent barrister and judge was the son of George Abraham Gibbs, Esq., a member of the medical profession practising at Exeter and holding the office of surgeon in the infirmary there from 1747 to 1781, when he retired to a small estate he had inherited at Clyst St. George. He died on November 9, 1794, at a very advanced age, a few days

[1] Life of Sir Michael Foster, p. 85.

after his son had by his distinguished ability assisted in obtaining the acquittal of Thomas Hardy.

Vicary Gibbs was born in October 1751, and was sent to Eton, where, while he formed friendships with several noble and eminent men which lasted till the close of his life, he pursued his studies with such success that he was elected scholar of King's College, Cambridge. At the former he contributed some elegant Latin compositions to the Musæ Etonenses, and at the latter he was notorious for his scholarship in Greek. Taking his degree of B.A. in 1772 he was elected fellow of his college; and having previously chosen the law for his profession he became a member of Lincoln's Inn in August 1769. He entered a pleader's chambers and applied himself with exemplary diligence and consequent success to master the subtleties of practice; and when he commenced business for himself as a special pleader he soon acquired a high reputation for ability in the science. The most complicated cases were accordingly submitted to him, and they flowed in with such abundance that he was wont to complain of the absence of easy ones. Yet with the friends he had made at Eton he enjoyed the usual pleasures of society, accompanying them to the different places of amusement. The theatre was one of his favourite relaxations, and his love for dramatic literature was evidenced by an extensive familiarity with almost every line of Shakspeare, and with passages and scenes from the best comedies; and later in life, by Prince Hoare's dedication to him of that writer's play of "Indiscretion."

Having established a large connection as a special pleader he was called to the bar in February 1783; and in the next year he married. Joining the western circuit, by his superior knowledge, the fame of which preceded him, he soon obtained sufficient employment, leading naturally to equal success in Westminster Hall. The estimation for profes-

sional acumen in which he was held was so great that only ten years after his call Horne Tooke, disregarding Mr. Gibbs's known predilections on the side "of public peace and public order," and no doubt being aware of his energetic defence at Exeter of the Rev. Mr. Winterbottham, indicted for alleged sedition in two sermons,[1] strongly recommended him to be employed in aid of Erskine, in the trials for high treason that were then about to take place. The soundness of the acute clergyman's judgment was soon proved, for discarding all political prepossessions, Mr. Gibbs threw himself into the cases with such zeal, and displayed so much constitutional learning, that by his exposition of the law and application of the facts, almost as much as by the wonderful eloquence of his leader, verdicts of acquittal were not only gained for all the defendants in those extraordinary trials, but also a release from apprehension for the numerous misguided men who might have been implicated in the transactions which formed the groundwork of the charge. Sir John Scott (Lord Eldon) the prosecutor on these trials, sent him across the table this written testimony at the termination of them: "I say from my heart that you did yourself great credit as a good man, and great credit as an excellent citizen, not sacrificing any valuable public principle; I say from my judgment that no lawyer ever did himself more credit or his client more service; so help me, God!"

This masterly performance at once raised Mr. Gibbs to the front rank of his profession, and led to a rapid succession of forensic honours. The author of these pages well remembers the surprise he felt during his pupilage at the number of patents which he saw on the shelves of the then eminent barrister. The recordership of Bristol he had received in February 1794, before the treason trials, as a recognition of his legal merits. In the following years he was made

[1] State Trials, xxii. 838, 884.

king's counsel, and received the appointment of solicitor-general to the Prince of Wales; which was followed by that of his royal highness's attorney-general. In 1804 he was promoted to the chief justiceship of Chester; and in February 1805 he became solicitor-general in Mr. Pitt's last administration, and was then knighted. He held this place for a year only, resigning on that statesman's death; but the Whig administration that succeeded holding the reins of government little more than twelve months, Sir Vicary, on their exclusion, was restored to office, but in the higher grade of attorney-general. George III. had a great esteem for him and a just sense of his abilities, saying to those who wanted to persuade his majesty that he was a disaffected man, that he knew him to be too excellent a man to wish any harm either to his king or his country, and that everybody had a right to his own opinions.

In the parliament that followed the change of ministry he had the honour of being returned for his own university, defeating the late chancellor of the Exchequer, Lord Henry Petty, and also our present prime minister, Lord Palmerston, then first entering into political life. As a senator he undoubtedly did not shine, his style of eloquence not being adapted to the audience he was addressing. As a legislator, the only statute he introduced was one enacting that a person against whom an information had been filed might be arrested and held to bail (48 Geo. III. c. 58), the provisions of which were so obnoxious that neither he nor any subsequent attorney-general ever put them in force. In the exercise of his official functions he is considered to have been extremely severe, and there is no doubt that he filed many more ex-officio informations than any of his predecessors. The fact is that while Sir Vicary held office seditious libels were the order of the day; and there was so much licentiousness in certain publications of the daily and weekly

press, that it was deemed necessary to put some restraint on them. But it might well be a question whether the attorney-general's power was not too freely exercised, when by a return made to the House of Commons it appears that from 1808 to 1810 no less than forty-two informations had been filed, while only fourteen had been filed during the preceding seven years. The wisdom of these proceedings becomes still more doubtful, when out of these forty-two informations no less than twenty-five were not prosecuted, but the subjects of them were left in a state of suspense and anxiety. The sentences passed on those who were convicted shew, by their severity, how strongly the judges felt the necessity of stopping the seditious incitements, and how clearly they saw the danger that induced the attorney-general to prosecute them.

Among the most important of those convicted were Cobbett for an article in the "Register"; Hart and White, the printer and publisher of the "Independent Whig"; and John Gale Jones the manager of a debating society called the British Forum. Among the acquitted were James Perry and John Lambert for an apparently innocent passage in the "Morning Chronicle"; and John and Leigh Hunt for a much more questionable article in the "Examiner." These defeats seem to have put an end to any further proceedings on Sir Vicary's ex-officio informations, but not before a general outcry had been excited against the frequency of them. Though many will contend with some degree of reason that from the temper of the times extreme measures were called for, and therefore may approve of the policy adopted, the active mover in it no doubt incurred great unpopularity, which it cannot be denied was aggravated by the personal character of severity and harshness which generally but undeservedly attached to him. Few men were really more sensitive, more kind-hearted, more anxious to

atone for an unpremeditated wrong, and more desirous of the good opinion of good and moral men. But his manner was so caustic and bitter, and sometimes so rude and uncivil, that the prevalent feeling would be amply justified; and his assumption of superiority over his brother barristers, which on one occasion received a severe rebuke, did not tend to remove it.

At the same time his superior merits as a lawyer were universally acknowledged; and his elevation to one of the highest seats on the bench was certain when a vacancy should occur. Yet after he had filled his office for five years he found its duties, together with his vast accumulation of business both in court and in chambers, so much more onerous than his strength or his health could bear, that on May 28, 1812, he accepted a seat in the Common Pleas as puisne judge; though no doubt with a promise of future promotion. Both Lord Brougham and Mr. Townsend attribute this sudden and unexpected change to the alarm taken by Sir Vicary at the assassination of Mr. Perceval; but the idea must not only in its nature be a gratuitous one, but is also highly improbable, when his courage had not flinched during all his zealous and energetic proceedings, exciting as they naturally would the rancour of so many individuals. He sat in the Common Pleas only eighteen months, when by the resignation of Sir Archibald Macdonald he was promoted to be chief baron of the Exchequer in November 1813. In less than three months Sir James Mansfield's retirement enabled him to take the place which he most desired and was best fitted for. He was sworn lord chief justice of the Common Pleas in Hilary vacation 1814, and presided in that court for nearly five years. The attack of ill-health from which he had long suffered, and to which it is charitable to attribute much of his ill temper, becoming more frequent, he

felt himself compelled to resign his seat on November 5, 1818, his friend and college companion, Lord Ellenborough, retiring at the same time.

As a judge all competent authorities give him the highest praise. The prejudice which undoubtedly existed against him personally is altogether silenced when his judgments are the subject of observation. One of the most severe of his critics admits that "there was but one opinion as to his fitness for the situation which he had been selected to fill, and that in point of learning and experience no one could be better qualified for it. . . . . His decisions on the bench or at Nisi Prius furnished equal proofs of the extent of his learning and of the accuracy of his mind."[1] All indeed admit the profundity of his learning and his ready and accurate application of it; and even those who complain most of his manner as an advocate, allow that his bearing as a judge was seldom marked by any asperity of temper. Lord Brougham in a depreciating character of him acknowledges that "his legal arguments were often much to be admired; . . . . he brought out his governing principle roundly and broadly; he put forward his leading idea by which the rest were to be marshalled and ruled; . . . and while others left only the impression on the hearer that many authorities had been cited, and much reading displayed, his argument penetrated into the mind, and made it assent to his positions, without much regarding the support they found from other quarters."

On quitting the bench he retired altogether from public life, his health being too materially affected to enjoy more than the company of domestic society. In that society he had always shone, and they who partook of it are loud in their declaration of the charms he imparted to it. His familiar friends, and they were many from both sides of

[1] Notes of a retired barrister.

politics, bear witness to his virtues, his high religious feelings, his honourable principles, his goodness of heart, and the kindness of his disposition, notwithstanding occasional irritabilities of temper. After suffering for fifteen months he died on February 8, 1820, and was buried in the family vault at Hayes, with a monumental inscription of great elegance and truth penned by his friend Sir William Scott, Lord Stowell.

He married on June 1784, Frances Cerjoit Kenneth, sister of Francis Humberston Mackenzie, Lord Seaforth, who survived him twenty-three years and died in 1843 at the age of eighty-eight. Their only child, Maria Elizabeth, was married to Major, afterwards Lieutenant-General Sir Andrew Pilkington, K.C.B.

## GOULD, HENRY.

B. E. 1761. JUST. C. P. 1763.

THIS Sir Henry Gould was the grandson of his namesake, the judge in the reigns of William III. and Anne, and the son of Davidge Gould, Esq. of Sharpham Park in the county of Somerset, a barrister of the Middle Temple, by his wife Honora daughter of —— Hockmore of Buckland Baron in Devonshire. He was born about the year 1710, in which his grandfather died.

The Middle Temple, to which he was admitted in May 1728, called him to the bar in June 1734; and at the end of twenty years he arrived at the dignity of a bencher on being made king's counsel. His business was considerable, but he was distinguished more by the soundness of his law than by the power of his oratory. In Michaelmas term 1761 he was raised to the bench as a baron of the Exchequer, where he sat till the end of the next year, when on the death of Mr. Justice Noel he was removed into the Common Pleas on

January 24, 1763. With acknowledged ability he exercised his judicial duties till his death at the age of eighty-four on March 5, 1794; a period of thirty-three years from his first appointment.

On the motion of John Wilkes for a habeas corpus, he and Judge Ashhurst differed from their brethren, and considered the return of the messenger to be insufficient; but upon the new writ they all concurred in discharging the prisoner from custody. In the riots of 1780 when the king, after Lord Mansfield's house had been burnt, offered to all the judges the protection of the military, Judge Gould is said to have declined the proffered aid, and to have declared that he would rather die, than live under any other than the laws of England.

Of an amiable and quiet disposition, few incidents are recorded of him, though he lived to see the bench three times cleared of his associates. He was buried at Stapleford Abbotts in Essex, of which parish his brother Dr. William Gould was rector. He married Elizabeth daughter of the venerable Dr. Walker, archdeacon of Wells. Their only son dying in the judge's life, his large fortune was divided between his two daughters, one the wife of the Hon. Temple Luttrell, and the other of the Earl of Cavan.[1]

## GRAHAM, ROBERT.

B. E. 1800.

*See* under the Reign of George IV.

## GRANT, WILLIAM.

M. R. 1801.

Among the judges that distinguished the reign of George III. Sir William Grant occupies one of the most prominent places, and of his seven countrymen who graced the judicial bench

[1] Collinson's Somerset. ii. 268; Gent. Mag. in annis; Burke.

he stands next in reputation to Lord Mansfield. He was born at Elchies in Morayshire in 1755. His father James Grant was a humble member of that branch of the ancient clan of the Grants settled at Baldornie, having been at first a small farmer and afterwards collector of the customs in the Isle of Man. In consequence of the death of both his parents while he was in early youth he was left to the care of his uncle a wealthy merchant in London. After passing through the grammar school at Elgin he was sent to the college of Aberdeen; and then spent two years at Leyden in studying the civil law, intending to adopt the legal profession. He is said to have resorted for a short time to an attorney's office as a useful introduction to practical knowledge. Entering Lincoln's Inn on January 30, 1769, he was called to the bar on February 3, 1774, and determined to try his fortune in Canada, where he went in the next year. Soon after his arrival he rendered military service by commanding a body of volunteers during the siege of Quebec by the Americans. The governor appointed him attorney-general of the colony, where for several subsequent years he had the principal lead as an advocate. Not satisfied with shining in so limited a sphere he then resigned his office and returned to England. Here however his colonial fame had not extended; and his efforts in the Common Law courts and on the Home circuit were attended with so little success that he contemplated returning to his former exile. But his good fortune introduced him to two patrons, who were capable both of appreciating and rewarding his superior talents. Mr. Pitt requiring some information relative to Canada was accidentally referred to him, and having found his intelligence useful and abundant and his views correct and statesmanlike, he at once saw his value and commenced that friendship which secured his future promotion. As one of its first fruits he was returned to parliament at the general election in November 1790 for

the borough of Shaftesbury. He soon distinguished himself in the debates, giving an effective support to the minister in the political difficulties of that troublous time, and being complimented for his eloquence and ingenuity by the most eminent leaders of the opposition. In 1796 he was returned for the county of Banff, which he continued to represent while he remained in parliament.

His second patron was Lord Thurlow, who after listening to his argument on a Scotch appeal in the House of Lords, expressed the highest opinion of his reasoning powers, and encouraged him to devote himself to the Equity courts. There he consequently took his stand, and in April 1793 receiving a patent of precedence he in a very short time acquired a leading business. In the same year he was appointed one of the judges of the Carmarthen circuit;[1] and in 1795 solicitor-general to the queen. In 1798 he succeeded Mr. Serjeant Adair as chief justice of Chester; and in July 1799, on Sir John Mitford's promotion to the attorney-generalship, he was appointed solicitor-general, and was knighted. He held this office nearly two years, when that of master of the Rolls becoming vacant by the transfer of Lord Alvanley to the presidency of the Common Pleas, Sir William was with universal approval called upon to fill it. He entered upon its duties on May 27, 1801, and at once justified the expectations formed of him. During the period in which he sat in the Rolls Court, extending to nearly seventeen years, he was looked upon as a perfect model of judicial excellence. No judge ever gave more satisfaction. His judgments were not only convincing by their practical wisdom, but were remarkable for the clearness with which they explained the principles of equity on which they were founded. No one who has practised under him can forget

[1] Townsend defers these appointments till 1795; but they are recorded by the Gent. Mag. for 1793.

the patient attention with which he listened to all the statements and arguments of counsel, or the discrimination he evinced in extracting from confused details all that was relevant, or the clearness and simplicity of his reasons when he pronounced his decision. A passage in Sir Arthur Piggott's address to him on his retiring from his office will best illustrate the feelings both of the bar and the public. "The promptitude and wisdom of your decisions have been as highly conducive to the benefit of the suitor as they have been eminently promotive of the general administration of equity. In the performance of your important and arduous duties, you have exhibited an uninterrupted equanimity, and displayed a temper never disturbed, and a patience never wearied: you have evinced an uniform and impartial attention to those engaged in the discharge of their professional duties here, and who have had the opportunity and enjoyed the advantage of observing that conduct in the dispensation of justice, which has been conspicuously calculated to excite emulation, and to form an illustrious example for imitation."

To the regret of all he retired from his court on December 23, 1817. The Equity bar testified their respect and veneration for him by requesting him to sit for his picture, which, painted by Sir Thomas Lawrence, now graces the hall in which he sat. For a few subsequent years he assisted in hearing appeals at the cock-pit; but afterwards altogether retired from public life, and lived to attain his eighty-third year. He died at Dawlish in Devonshire on May 25, 1832.

When England was threatened with invasion, Sir William, while master of the Rolls, for a second time assumed the military habit; and joining the volunteers who embodied themselves for the safety of the country, he was called upon, no doubt from the tradition of his prowess and experience at Quebec, to take the command of the Lincoln's Inn corps, which he put into as good a state of efficiency as any in

London. In 1809 he was elected lord rector of the university of Aberdeen.

The impression which he made in parliament was wonderful. Few men have gained a greater ascendency. Lord Brougham relates that even Mr. Fox felt it difficult to answer him, and that once, being annoyed by some members talking behind him while he was listening to one of Sir William's speeches, he turned round and asked them sharply, "Do you think it so very pleasant a thing to have to answer a speech like *that?*" The effect of his addresses are thus described at a later period:—"There was one extraordinary oration that night—Sir William Grant's; quite a masterpiece of his peculiar and miraculous manner. Conceive an hour and a half of syllogisms strung together in the closest tissues, so artfully clear that you think every successive inference unavoidable, so rapid that you have no leisure to reflect where you have been brought from, or to see where you are to be carried; and so dry of ornament, or illustrasion, or reflection, that your attention is stretched—stretched—racked. All this is done without a single note."[1] He participated in the prejudices which prevailed among judicial men of that period against any innovations of the law, and successfully opposed most of the beneficial alterations suggested by Sir Samuel Romilly's intellectual and comprehensive mind, which have since been adopted by the legislature. To Sir Samuel's amelioration of the criminal code, however, he gave a hearty support.

Though grave and formal, and even cold in his manner, he had much enjoyment in social conviviality; and when in friendly intercourse with his eminent contemporaries, whether statesmen or judges, a few rounds of his favourite Madeira soon conquered his habitual taciturnity. He was fond of

[1] Memoirs of Francis Horner, i. 285.

literature and poetry, and the publications of the day formed his relaxation from severer studies.

## GROSE, NASH.

JUST. K. B. 1787.

EDWARD GROSE, the father of Sir Nash Grose, was a resident of London, where his son was born about the year 1740. He was admitted into Lincoln's Inn in July 1756, and called to the bar by that society in November 1766. After a short and successful career as a barrister he was honoured with the degree of serjeant in Easter Term 1774, and soon commanded the leading business in the Common Pleas, which he retained till he was raised to the bench. That event occurred on the death of Mr. Justice Edward Willes, whom he was appointed to succeed as a judge of the King's Bench on February 9, 1787, and soon after received the usual honour of knighthood. After occupying the same seat for twenty-six years his infirmities obliged him to resign it in Easter Vacation 1813. His death took place in the following year on May 31, when his remains were interred in the Isle of Wight, where he had a beautiful seat called the Priory.[1]

Both in his private and judicial character he was highly respected; but contemporary critics of course differ as to his powers and efficiency. By some he was considered to have lost in credit what he gained in rank; and this couplet was perpetrated against him:

> "Qualis sit Grotius Judex uno accipe versu;
> Exclamat, dubitat, balbutit, stridet et errat."

But if he were, as Lord Campbell states, the subject of Lord Erskine's epigram quoted in the previous life of Mr. Justice Ashhurst, he was regarded by other lawyers with very dif-

[1] 1 Term. Rep. 551; 1 Maule and Selwyn, 565; Gent. Mag. 1814, p. 629.

ferent eyes. Lord Campbell says that his aspect was very foolish, and that he had the "least reputation" among his colleagues: but he adds that "this supposed weak brother, though much ridiculed, when he differed from his brethren, was voted by the profession to be right." His charge to the grand jury in 1796 was published. But whatever his failings or merits were as a judge, he was acknowledged as a man to be most amiable and kind; and he was held by the bar in the highest estimation and regard.

Sir Nash married Miss Dennett of the Isle of Wight, who died at the judge's house in Bloomsbury Square in 1794.[1]

## HEATH, JOHN.

Just. C. P. 1780.

The father of this estimable judge was Thomas Heath, an alderman of Exeter; and his uncle was Benjamin Heath, town-clerk and a lawyer of eminence in that city, who was the father of Dr. Benjamin Heath, the head-master of Eton. Both the brothers were learned men, and several works were published by them; among which was an Essay on the Book of Job, by the judge's father.[2] The judge himself for a time filled the office of town-clerk of his native city; and on his death bequeathed nearly 20,000*l.* to his friend Mr. Gatty, who held the office after him.

He was a member of the Inner Temple, to which he was admitted in May 1759, and was called to the bar in June 1762. In 1775 he was graced with the dignity of the coif, and had a certain prospect of promotion in the friendship of Mr. Thurlow, who when he became lord chancellor recommended him for the first vacancy on the bench that occurred. Accordingly, on the death of Mr. Justice Blackstone, Mr.

[1] Lord Campbell's Chief Just. iii. 58, 155; Gent. Mag. 1794, p. 388.

[2] Nichols' Lit. Anecd. of 18th cent. ii. 276.

Heath was appointed to supply his place in the Common Pleas on July 19, 1780. In that court he continued to sit for nearly thirty-six years, and was accustomed to say that he was determined to die in harness. His age at his death is recorded in the parish register to have been eighty, but on his monument in the church of Hayes in Middlesex, where he lived with his sister, he is stated to have been eighty-five. That the latter was incorrect is rendered more probable from another blunder on the stone, representing his death to have taken place on January 23, 1817, when in fact it occurred on January 16, 1816.

That he was somewhat eccentric may be surmised from his refusal to accept the honour of knighthood, at that time and now almost invariably conferred on the occupiers of the judicial bench, declaring that he would die "plain John Heath,"—a resolution to which he firmly adhered. But his excellence in performing the functions of a judge is allowed by all who were witnesses of his career. Lord Eldon, who was part of the time chief justice of that court, took occasion to remark with admiration and surprise on the extent of his professional knowledge. Many also are the testimonies to his private worth, and to the universality and accuracy of his general knowledge. He was strictly impartial, and on the trial of the Bishop of Bangor and others for a riot he stated that the evidence proved the case, and summed up strongly against them. But their compassion for the bishop more than the eloquence of Erskine induced the jury to bring in a verdict of acquittal. He was considered a severe judge, and Lord Campbell says (Chancellors, vi. 154) that he used to hang in all capital cases on principle, because he knew of no good secondary punishments. Though capital punishments were then carried to an outrageous extent, the failure of the ticket-of-leave system which too frequently follows the penalties since substituted, forcibly confirms the

judge's opinion that "the criminal is soon thrown upon you again, hardened in guilt." Though he is said to have held this opinion, in his private intercourse he was kind, charitable, and good-natured; and Mr. Serjeant Shepherd took an opportunity of expressing the sentiments of the bar and his own, in paying respect to his memory as an able and upright judge and a worthy and valuable man. He died unmarried.[1]

## HENLEY, ROBERT, Lord Henley, Earl of Northington.

Lord Keeper, 1760. Lord Chanc. 1761.

*See* under the reign of George II.

The family from which this lord chancellor descended was originally established at Henley in Somersetshire, of which county some members of it were sheriffs. Its elder branch was honoured with a baronetcy in 1660 which expired in 1740. The chancellor's great-grandfather, Sir Robert Henley, master of the court of King's Bench in the reign of Charles I., having acquired the estate of the Grange in Hampshire, employed Inigo Jones to erect a considerable mansion on it. His third son, Sir Robert, and his grandson, Anthony, were both successively members of parliament for Andover, and the latter was afterwards representative for Weymouth till his death in 1711. This Anthony, who was one of the most accomplished wits of his day, by his marriage with Mary the daughter and coheir of the Honourable Peregrine Bertie, second son of the Earl of Lindsey, became the father of three sons, of whom the chancellor was the second. The two others died without issue, Anthony in 1745, and Bertie in 1760.

Robert Henley was born about 1708, and was educated

[1] Notes and Queries, Third Series, ii. 11; Gent. Mag. lxxxvi. 186; Law and Lawyers, ii. 214; State Trials, xxvi. 523.

at Westminster, having for his schoolfellows Lord Mansfield and Sir Thomas Clarke, afterwards master of the Rolls. In 1724 he entered St. John's College, Oxford, and was elected a fellow of All Souls' in 1727. In the following year he was admitted to the Inner Temple, and was called to the bar in 1732. In 1733 he took his degree of Master of Arts.

As a young man he was jovial and hilarious, and indulged so much in the prevailing vice of drinking, that he laid the foundation of that gouty habit from which he subsequently suffered. But he did not neglect the duties of his profession, and evidently acquired an early practice in the court of Chancery, which increased so much that he was compelled in 1745 to take chambers in Lincoln's Inn, where equity lawyers "most do congregate." For this purpose he was also then admitted a member of that society. It was at that time the custom for chancery barristers to attach themselves to a circuit and thus to obtain some insight into the course of the common law and criminal courts (a practice which had not been altogether discontinued at the beginning of the present century); and Mr. Henley chose the western circuit, his connections being resident within it. Here his rough and ready advocacy soon procured him a lead; and a curious story is told of his being obliged to apologise to a Quaker of Bristol named Reeve for some indecent liberties he had taken with him in cross-examination. It speaks well for both, that the Quaker was afterwards employed by the chancellor to pay the freight of some wine consigned to him, and that the chancellor invited his old antagonist to dine at his table, and good-humouredly related to the company the particulars of their early fracas.

He was elected recorder of Bath, where he resided during his vacations, and where he formed a romantic attachment to Jane the beautiful daughter and one of the co-heiresses of Sir Hugh Huband of Ipsley, Baronet. She had at that

time entirely lost the use of her limbs; but on her recovery they were united in 1743. Bath elected him its representative in the parliament of 1747, and he continued its member till his elevation to the Equity Bench. Attaching himself to the Leicester House party, he was an active debater in support of its line of politics. After the death of the Prince of Wales he continued his adherence to the Princess, and on the establishment of the household of the young prince (afterwards George III.) in 1751, he was appointed his solicitor-general, and in 1754 his attorney-general, being on the former occasion admitted within the bar as one of the king's counsel, and elected a bencher of the Inner Temple. On the elevation of Sir William Murray (Lord Mansfield) to the presidency of the court of King's Bench, Mr. Henley was appointed on November 6, 1756, attorney-general in his place, and knighted: and on the Coalition Ministry being formed in the following year, Sir Robert, after ineffectual offers of the Great Seal had been made to Lords Hardwicke and Mansfield, Sir Thomas Clarke, and Chief Justice Willes, was nominated lord keeper on June 30, 1757.

So unacceptable was he to George II. from his connection with Leicester House, that he was allowed to preside in the House of Lords for nearly three years without a title; but the necessity of appointing him lord high steward for the trial of the Earl of Ferrers for the murder of his steward, and the impropriety of a commoner holding that high office, obliged the king on March 27, 1760, to create him a peer, as Baron Henley of the Grange. At that trial, judging from the printed account, his conduct was simple and unaffected, and the ill-natured and prejudiced assertion of Horace Walpole that it wanted dignity is fully refuted by the grave, appropriate, and affecting addresses delivered by his lordship

to the noble prisoner, both on his arraignment and his condemnation.

George II. died six months afterwards, and soon after the accession of George III. Lord Henley's title of lord keeper was converted into that of lord chancellor. He was the last person who was designated by the former title; the single holder of the Great Seal being ever since that time, now more than a century, distinguished by the latter. It is difficult to account for the unmeaning imposition of the two titles since the time of Queen Elizabeth, when an Act of Parliament took away every essential difference that might have existed previously, and declared them to be equal in power, jurisdiction, and dignity. The Act was passed when Sir Nicholas Bacon was lord keeper, and he retained that title till his death. His two successors, both commoners, were lord chancellors, but the following two were only lord keepers. Since the death of Queen Elizabeth several holders of the Great Seal have been first named lord keepers, and then lord chancellors, so that the latter title continued to be esteemed superior to the former, notwithstanding the parliamentary equality. To George III. we are indebted for the extinction of the absurd variance, and by him and his successors the more constitutional title of chancellor has been uniformly adopted.

This was the first proof that the new king gave of the favour with which he regarded his former officer; but it was soon followed by other and more distinguished marks. On May 19, 1764, he was created Earl of Northington (the hamlet in which the Grange estate was situate), and in the following August he was made lord lieutenant of his county. Shortly after his elevation in the peerage he was again called on to preside as lord high steward at the trial of Lord Byron for the murder of Mr. Chaworth in a duel, when the prisoner was acquitted of the capital charge, but found guilty

of manslaughter. Though Lord Northington owed his appointment of lord keeper to Mr. Pitt, he still retained the Great Seal when that minister was succeeded by Lord Bute, and also during the two subsequent administrations headed by the Duke of Bedford and the Marquis of Rockingham. With several points in the policy of the last he differed so materially that he induced his majesty to submit the guidance of the State to his old patron Mr. Pitt, upon the formation of whose administration he retired from the post of lord chancellor on July 30, 1766, and took the less onerous position of lord president of the council. His principal inducement for making this sacrifice was the impossibility he found of performing the duties of the office of chancellor, enfeebled as he was by repeated attacks of the gout, the consequence of his early intemperance. The same cause obliged him eighteen months after to resign his new office; and from December 1767 he retired wholly from public life. He died on January 14, 1772, and was buried at Northington, where a handsome mural monument has been erected.

In the judgment of Lord Eldon, "he was a great lawyer, and very firm in delivering his opinion,"—an authority which few will dispute. Its justice will receive confirmation from a collection of his decisions, printed from his own manuscripts by his grandson, Robert Eden, second Lord Henley of that name, who afterwards published a memoir of his life which has been freely used in the present sketch. As a politician one party says he was an intriguer, and the other that his opposition was open and avowed. His continuation in office in four opposing administrations seems to justify the former charge, and his refusal to continue in it when his first friends regained the ascendency seems to contradict it. The truth is that almost every individual in those intriguing times was obliged in some degree to resort to management;

but Lord Northington appears to have been bold and above-board.

He retained to the end of his life his love of classical literature; and in his domestic circle he kept up the conviviality which distinguished him in his early years; tinctured rather too much with warmth and irritability, and with the common use of profane expressions,—a vulgar and unmeaning habit which then unhappily prevailed, adopted more with the view of giving strength to expressions than with any thought or intention of being blasphemous. Many eccentric stories are told of his indulgence in this propensity, sometimes even on grave and solemn occasions. Though he was undoubtedly coarse and careless in his language, he has not been charged with being incorrect or immoral in his conduct; and the two beautiful prayers, which Lord Henley informs us he composed for the use of his wife, leave the impression that he was more deeply imbued with religious feelings than he had the credit of entertaining.

Lord Northington's wife survived him many years. She bore him three sons and five daughters. Of the three sons only one survived him, Robert, who was the second and last earl, dying in 1786 unmarried. Of his five daughters only one left issue, viz. Elizabeth married to Sir Morton Eden, K.B., who was created in 1799 Lord Henley of Chardstock in the peerage of Ireland. His son, the second lord, was the author of the memoir of his grandfather, and assumed the name of Henley, which is borne by the present peer.

## HEWITT, JAMES, *afterwards* LORD LIFFORD.

JUST. K. B. 1766.

JAMES HEWITT, the eldest son of William Hewitt a mercer and draper at Coventry, who served the office of mayor in 1744, was born in 1709. He commenced his life in an

attorney's office, under articles to Mr. James Birch, who afterwards became receiver for the county of Warwick; but was subsequently induced to seek his fortune at the bar. For this purpose he entered the Middle Temple in September 1737, and became a barrister in November 1742. His merits as a lawyer procured him in 1755 the dignity of the coif, and four years afterwards the position of king's serjeant. In 1761 he was elected member for his native town, for which he had been an unsuccessful candidate in 1754. He seconded in 1765 the motion to get rid of informations ex-officio by the attorney-general, but his arguments are not recorded, though the mover Mr. Nicholson Calvert ushers them in with a flourish about his "abilities as a lawyer" and his "integrity as a member of Parliament." This is the only debate in which he is mentioned in the Parliamentary History; but the style of his oratory may be surmised from the story that is told of Charles Townshend, who being met going out of the house, when Serjeant Hewitt was thundering away on some dull legal question, was asked whether the house was up? "No," said Townshend very gravely, "but the Serjeant is."[1] At this time he was in opposition; but in the next year, when the Earl of Chatham came in, and his friend Lord Camden was made lord chancellor, the latter offered him the judgeship of the King's Bench, which would become vacant by the advance of Sir John Eardley Wilmot to the head of the Common Pleas. The serjeant at first hesitated, but upon a promise by Lord Camden that if he held the Seal when the chancellorship of Ireland became vacant, he should be promoted to that office, he accepted the offer and was sworn in on November 6, 1766. Within a year the Irish chancellor Lord Bowes died, and after an interval of about six months, Lord Camden succeeded in overcoming all obstacles, and Mr. Justice Hewitt received his patent as Lord Chancellor of

[1] Gent. Mag. lix. 571; Parl. Hist. xvi. 45; Conveyancer's Guide, 106.

Ireland on January 9, 1768. In June following he was created Baron Lifford in the Irish peerage, to which a viscounty was added in 1781. The Journal of the Duke of Grafton, then prime minister, in recording his appointment, says he "accepted the Seal, with every good disposition to discharge properly the great trust put into his hands, and his learning as a lawyer sanctioned our expectations from the appointment. He was a true Whig, and bore a character to which all parties gave their assent of respect: and though his speeches in parliament were long, and without eloquence, they were replete with excellent matter and knowledge of the law." He filled this high office till his death on April 28, 1789, a period of more than twenty-two years. With few advantages of education, and with no extraordinary powers of intellect, he was successful in the exercise of his functions as a judge by the accuracy of his technical knowledge and his general professional skill. Formal in his manner and old-fashioned in his ideas, he yet by his patience and urbanity to all, acquired universal esteem and respect.[1]

He married, first, . . . . the daughter of the Rev. Rhys Williams, D.D. rector of Stapleford-Abbotts in Essex; and secondly, Ambrosia, daughter of the Rev. Charles Bayley of Knavestock in the same county. By both wives he had issue. The viscounty is still held by the descendants of his eldest son. His third son Joseph became a judge of the King's Bench in Ireland: and his fourth son, John, was dean of Cloyne.

## HOLROYD, GEORGE SOWLEY.

JUST. K. B. 1816.

*See* under the Reign of George IV.

[1] Burrow's S. C. 569; Smyth's Law Off. Ireland, 41, 42, 314.

## HOTHAM, BEAUMONT, *afterwards* Lord Hotham.

B. E. 1775. Com. G. S. 1783.

This judge is of the same family as that to which John de Hotham, bishop of Ely, already noticed as chancellor to Edward II. and Edward III., belonged. The descendant of this prelate's elder brother was created a baronet in 1621. The seventh possessor of the dignity was Sir Beaumont Hotham, who by his wife Frances, daughter of the Rev. William Thomson, had five sons, on four of whom the title successively devolved. The third son, Admiral William Hotham, for his gallant achievements at the commencement of the French Revolution, was in March 1797 created Baron Hotham of South Dalton in the Irish peerage, with a special remainder to the heirs of his father. On his death without issue in May 1813, his two elder brothers having left no representative, the heir to both titles was his next brother, the judge, who is the subject of the present sketch.

Beaumont Hotham was the fourth son of Sir Beaumont, and was born in the year 1737. He commenced his legal studies at the Middle Temple in January 1753, and was called to the bar in May 1758. He practised in the Chancery Courts, but with little success and less distinction; and though a member of the two parliaments called in 1768 and 1774, in both of which he represented Wigan, he did not obtain any of the honours of his profession, till he was appointed on May 10, 1775, to succeed Mr. Baron Perrot on the Bench of the Exchequer; when he was knighted. He sat in that court for the long space of thirty years; and the only variation in his judicial career was in 1783, when he was placed as third commissioner of the Great Seal in the interval between the two chancellorships of Lord Thurlow. This lasted for nearly nine months from April 9 to December 23. But when Lord Thurlow resigned about nine years

afterwards, Sir Beaumont was not replaced in the commission that then held the Seal for a year. Though he never had any business at the bar, by the effect of great natural sense and an excellent understanding, he made a good judge, and was deservedly esteemed for his polished manners, marked by courtesy, kindness, and attention. So circumscribed was his knowledge of law that when any difficulty arose he was in the habit of recommending the case to be referred; thus acquiring among the wags of Westminster Hall the nickname of "The common friend." In criminal cases he was distinguished for his humanity, and for his impressive and pathetic addresses to prisoners.

Feeling the infirmities of age approaching he resigned in Hilary term 1805; but lived for nine years afterwards. On his brother's death on May 2, 1813, he succeeded to the title of Lord Hotham, but enjoyed it only ten months, his own death occurring on March 4, 1814. By his marriage with Susannah, daughter of Sir Thomas Hankey, an alderman of London, and widow of James Norman, Esq., he had three sons and three daughters. The eldest son having died during his father's life, the title devolved upon and is now enjoyed by his grandson.[1]

## KENYON, LLOYD, Lord Kenyon.

M. R. 1784. Ch. K. B. 1788.

The doubts as to some other legal worthies commencing their career with views of entering the lower branch of the profession cannot exist with regard to the eminent lawyer, whose life is now to be considered. He served the full term of his articles with a country attorney, and, but for a disagreement with his master about entering into partnership

[1] Biog. Peerage, iv. 388; Gent. Mag. in annis; 6 East, 1; Strictures on Lawyers, 169.

with him, might have ended his life in obscurity, instead of obtaining the highest rank in the Common Law courts of the kingdom. Lloyd Kenyon was the second but eldest surviving son of Lloyd Kenyon of Bryn in Flintshire, a magistrate of that county, by Jane, daughter of Robert Eddowes of Eagle Hall in the county of Chester. He was born at Gredington in the parish of Hanmer in Flintshire, an estate which his father had acquired by his marriage, on October 5, 1732; and after passing through Ruthin grammar school in Denbighshire, then in high repute, and in which Lord Keeper Williams was formerly, and Chief Baron Richards has been more recently a pupil, was at the age of fourteen articled to Mr. Tomkinson an attorney at Nantwich. There with extraordinary diligence and assiduity he mastered the elements of his profession, occasionally recreating himself by some boyish attempts at poetry. Luckily for his fame he soon deserted the Muses, and acquired so much credit with his master for his proficiency in law and steadiness in conduct, that negotiations were entered into to receive him into partnership. Some difference however arising as to terms, and his elder brother having lately died, it was determined that he should seek his fortune at the bar; and accordingly he was entered at the Middle Temple on November 7, 1750. He was called to the bar on February 7, 1756; and during his years of pupilage and for the long interval after, in which his merits and even his name were unknown, he occupied every instant of his time in laying in that store of knowledge so essential for the man who aims at the character of a real lawyer. He lived in a small set of chambers in Brick Court in the Temple; and was constant in his attendance in Westminster Hall, where he began taking notes of the cases he heard there so early as 1753. The small means which his father could allow him obliged him to live with the greatest economy; by which he contracted a habit of parsimony which

stuck to him to the last day of his life; and he was proud even in his prosperity of pointing out the eating-house near Chancery Lane in which he and Dunning and Horne Tooke used to dine together at the cost of 7½d. a head. With Dunning, who soon discovered his merits, he formed a close intimacy, attended with mutual benefit. When, by an unexampled success, Dunning was overwhelmed with cases and briefs, Kenyon was employed by him to answer many of the former and to look out the law and arrange the arguments arising from the latter. By this employment he not only improved in the exercise of his powers, but, when his assistance was discovered, the cases by degrees were sent direct to him, till at last he was well employed in that branch of business, and his opinions became much sought for and highly esteemed. The friendship between them had well nigh come to an end by Kenyon's Welsh pride being hurt by a joke of Dunning's, who on being asked to frank a letter to one of Kenyon's family waggishly added to the direction "North Wales, *near Chester*." This indignity to the principality so irritated the Welshman, that he flung down the cover, and exclaimed "Take back your frank, sir, I'll have no more of them." Dunning had some difficulty in pacifying him.

Not confining himself to chamber practice, which extended to drawing pleadings in equity and conveyancing, he did not relax his attendance on the different courts, particularly the Chancery, nor fail to travel the Welsh and Oxford Circuits, which Chancery barristers had not then ceased to do. Interposing sometimes as amicus curiæ with some abstruse law or forgotten clause in an old act of parliament, he attracted the attention of Lord Thurlow, whose idle habits required the aid of a laborious helper; and he was soon joined with Mr. Hargrave in doing privately the work for which the great man received the credit. This assistance was well rewarded; for not long after Thurlow became lord chancellor

he gratefully conferred on his "devil" in 1780 the chief justiceship of Chester, an office most gratifying to Kenyon, as it not only gave him honour in his own country, but confirmed the standing he had attained at the bar.

His services from this time were before the public eye; and his rise proceeded with such rapidity that in the course of the next eight years he became member of parliament, attorney-general, master of the Rolls, chief-justice of the King's Bench, and a peer. In the same year that he was made chief justice of Chester he was returned member for Hindon in Wiltshire. Soon after he made his first prominent appearance as leader in the defence of Lord George Gordon for high treason, in reference to the riots of 1780, in which his noble client was infinitely more indebted to the zeal and eloquence of Mr. Erskine, who acted as junior counsel, than to him. In fact though a deeply learned lawyer and a forcible arguer he was never, from his want of oratorical powers, an efficient leader in criminal or nisi-prius cases.

When Lord Thurlow had contrived to continue chancellor under Lord Rockingham's administration, he took the opportunity of advancing his favourite Kenyon, *per saltum*, to the attorney-generalship in March 1782; an advance which, as it had very seldom been made without passing through the intermediate steps, excited a little surprise and some discontent among his colleagues at the bar. Partaking of the political sentiments of his patron, he was not a very zealous assistant to the ministry; but continued in his office till April 1783, when both he and Lord Thurlow were turned out by the Coalition. His exclusion lasted only till the following December, when he was reappointed under Mr. Pitt, but did not hold the place above three months. The death of Sir Thomas Sewell occasioning a vacancy in the office of master of the Rolls, Kenyon was called upon to supply it on March 30, 1784, receiving also the honour of a baronetcy

on July 24. In the new parliament he was elected for Tregony, and fully ingratiated himself with the minister by his zealous opposition to Mr. Fox as a candidate for Westminster, actually having a bed put up in the loft of his stables to give him a vote; and supporting the scrutiny that followed that election with more energy than discretion. After presiding at the Rolls for four years, during which he was much commended both for efficiency and despatch, he was raised, on the resignation of Lord Mansfield, to the head of the court of King's Bench on June 9, 1788, and on the same day was created a peer by the title of Lord Kenyon of Gredington.

In dignity, urbanity, and grace, there was a sad falling off in the court, but in knowledge of law, application of principle, discrimination of character, intuitive readiness, and honesty of purpose, the new chief justice need not fear a comparison with his great predecessor. The disapprobation with which, from the offensiveness of his manner and his severity of expression, he was regarded by both branches of his profession, was more than counterbalanced by the admiration which, from the inflexibility of his justice, was universally accorded to him by the suitors and the public. To his unpopularity with the former is to be attributed the multitude of anecdotes about his worn-out habiliments, shabby equipage, and bad Latin, circulated by the contemporary jesters of the bar. They have been minutely detailed by Mr. Townsend, and repeated by Lord Campbell, but whether true or invented they ought now to be forgotten, as the venial frailties of the man, in regard to his acknowledged merits as the judge. To make the most of them, they were, as he himself considerately declared of the errors of Erskine, merely "blots in the sun." He was truly honest and independent, and had an absolute abhorrence of anything that savoured of irreligion, immorality, or fraud.

He was particularly sharp in punishing the misdeeds of unworthy practitioners; in actions for criminal conversation he urged the most exemplary damages; he made forcible war against the spirit of gambling, and neither high nor low escaped his invectives; and to the gross libels of the day, both political and personal, he was a stern opponent. Though his observations on these subjects might in some instances, no doubt, have been tempered with a little less warmth, they were dictated by the strictest moral principle, and tended, and were intended, to repress the evil practices upon which he was called to adjudicate. His addresses to juries were clear and distinct, and showed sound common sense and great discrimination; his arguments *in banco* always exhibited soundness of law both technical and material; and, notwithstanding all his minor failings, the decisions and rulings of no judge stand in higher estimation than those of Lord Kenyon. His presidency lasted nearly fourteen years, and his death, which was hastened by his grief for the loss of his eldest son, occurred at Bath on April 4, 1802. He was buried in the family vault at Hanmer where there is a monument with his effigy by Bacon, jun., with an inscription recording his piety and worth. His notes of cases, which only extended from 1753 to 1759, were published some years after his death.

He married in 1773 Mary, daughter of George Kenyon, of Peel in Lancashire, the elder branch of the family, and had by her three sons. The title is now enjoyed by the third baron, the grandson of the chief justice.

## LAW, EDWARD, Lord Ellenborough.

Ch. K. B. 1802.

Both clerical and legal honours distinguish the name of Law. The father of the chief justice was the learned

Edmund Law, Bishop of Carlisle from 1769 to 1787, who witnessed the elevation to the episcopacy of one of his thirteen children; another of whom attained the same dignity at a later period. John the elder became Bishop of Clonfert in 1782, of Killala in 1787, and of Elphin in 1795. George Edward was consecrated Bishop of Chester in 1812, and was translated to the diocese of Bath and Wells in 1824. The chief justice's mother was Mary, the daughter of John Christian, Esq. of Unerigge in Cumberland; and, of the numerous family she produced, he was the sixth child and fourth son.

Edward Law was born at Great Salkeld in Cumberland on November 16, 1750. On his mother's death in 1762 he was placed on the foundation of the Charter House, where, during the six years he remained there, he imbibed copious draughts from the stream of knowledge, and rose to the head of the school. Proceeding in 1768 to Cambridge, he entered Peterhouse College, of which his father had been master since the year 1754. There he formed intimacies with several who were afterwards his colleagues on the bench. Among his other friends was Archdeacon Coxe, by whom his picture at that time has been so faithfully drawn that it may be recognised in all his future career. His disposition is described as warm and generous, his thoughts as great and striking, his language as strong and nervous, and somewhat inclined to express his opinions with a little too much abruptness; active and enterprising, and preferring in his studies "the glowing and animated conceptions of a Tacitus to the softer and more delicate graces of a Tully." In 1771 he took his degree of B.A., coming out of the school as third wrangler, and gaining the gold medal for classical learning. In the next two years he obtained the members' prize for the second best dissertation in Latin prose; and honourably completed his university career by being elected fellow of his college.

He had been admitted at Lincoln's Inn on June 10, 1769, and when he left the university he attended at the chambers of Mr. (afterwards Baron) Wood, studying the mysteries of special pleading for two years, at the end of which he devoted himself for five years more to the practice of that science, the mastery of which is so essential to all who hope for future success and honour. When he had achieved a high reputation in that branch he quitted what must have been felt by him as an inglorious drudgery for a more expanded arena, by being called to the bar in Hilary Term 1780, and joining the Northern Circuit. In this he was not long before his merits were tested. His name, so familiar in the north, added to his already-gained repute in London, ensured him an immediate accession of business. In 1787 he had earned sufficient professional credit to be honoured with a silk gown, and in the same year held a crown brief on the trials of Lord George Gordon and others for libels (22 State Tr. 183). But the best proof of the estimation with which his forensic efforts were regarded was that before he had been eight years at the bar he was entrusted with the conduct of the defence of Warren Hastings, his juniors being Mr. Dallas and Mr. Plumer, both subsequently raised to the bench. In this arduous and deeply-responsible undertaking, opposed to all the eloquence, inveteracy, and power of the greatest orators of the day, he manfully and successfully struggled during the seven years of that famous trial, from February 1788 to April 1795, when his exertions were rewarded by the acquittal of his persecuted client. During the continuance of that trial he was, in 1792, made attorney-general of Lancaster; and having been for years the acknowledged head of his circuit, his speedy promotion in the profession was naturally expected. But he still had to wait nearly six years before a vacancy occurred. On the termination of Mr. Pitt's first ministry the attorney-general, Sir John Mitford, was sent

to Ireland as lord chancellor, and the solicitor-general, Sir William Grant, was made master of the Rolls, thus leaving at the minister's disposition both offices. Mr. Addington the new minister at once selected Mr. Law for the higher and Mr. Perceval for the lower, and they both entered on their duties on February 14, 1801. Mr. Law was knighted on the occasion; and in little more than a year was by the death of Lord Kenyon called to the high position of lord chief justice of the King's Bench. His promotion took place on April 12, 1802, accompanied by his being called to the House of Peers with the title of Baron Ellenborough, a small village in Cumberland.

At the time when he was appointed attorney-general for Lancaster, the political world was agitated by the excesses of the French Revolution, and he became necessarily engaged in all the trials that resulted from the seditious attempts of its admirers in this country. In conducting the extraordinary prosecution at Lancaster of Thomas Walker and others for a conspiracy, he at once consented to an acquittal, on finding that the evidence in support of it was in the highest degree suspicious; and prosecuted the perjured witness. He succeeded at York in convicting Henry Redhead Yorke of conspiracy; and he assisted in London on the trials of Thomas Hardy and John Horne Tooke for high treason, in which his duties were confined to the examination of the witnesses. During the few months in which he held the office of attorney-general to the king, besides prosecuting to conviction Joseph Wall on a charge of murder committed twenty years before, while governor of the island of Goree, he originated no prosecution for political offences. On commencing his official career a seat in parliament was provided for him, and during the short time that he held it he supported the ministerial measures with a nerve and vigour which at once fixed the attention of the House. These

characteristics distinguished his oratory in the House of Lords. His arguments were enforced with extraordinary power, and seemed to be urged without preparation; but his temper being too easily ruffled he was apt to use expressions the violence of which rather astonished than convinced that august assembly; and their coarseness and intemperance frequently called down upon him deserved castigation.

On the death of Mr. Pitt in 1806, Lord Ellenborough, according to established custom, held the Seal of chancellor of the Exchequer till the new ministry was appointed. By that ministry, composed of the Whigs and a few of Lord Sidmouth's friends, he was offered and refused the Great Seal, but by unadvisedly accepting a seat in the cabinet subjected himself, as Lord Mansfield had done before him, to the suspicions which must attach to one who at the same time holds a political and a judicial position. However honourably and independently the individual may act, there is so palpable an indecorum in the connection between the two, that it is to be hoped no further example will revive the controversy. His adherence to the Whigs lasted only till the ministry expired. Thenceforward he disconnected himself from party, though all his tendencies were strongly towards the support of government, and the resistance of innovations. He opposed most of the excellent endeavours of Sir Samuel Romilly to amend the criminal law, but was himself the author of an act, which goes by his name, making more stringent the punishment for malicious injuries. So inimical was he to all changes that he resisted the attempt of the same enlightened lawyer to subject real estates to the payment of the debts of the proprietor.

Though the bigotry of his opinions as a legislator incurred grave censure, in his character as a judge he won the admiration of all. At least equal to his predecessor in legal

learning, in personal deportment and in judicial eloquence he formed a complete contrast to him. His dignified bearing bespoke the chief justice, and his forcible language gave weight to his judgments; while the dread of his indignation against every attempt to impose upon the court tended greatly to improve the practice. His powers of sarcasm were very great, sometimes inconsiderately exercised; but prevarication by a witness, frivolous objections by a counsel, or any appearance of indecorum in the conduct of a case, never escaped the severity of his rebukes. In all questions between man and man he was inflexibly just, and in the trial of cases where the laws of morality were outraged by either party he exposed the delinquent with indignant austerity.

During his presidency the press teemed with libels both political and personal, and the chief justice partook most unjustly of the unpopularity which attended the numerous prosecutions for them, particularly in the time when Sir Vicary Gibbs was attorney-general. Unmindful that a judge has nothing to do with originating charges, the people forgot that he is not answerable for the cases brought before him for trial; and they were apt to tax his lordship with being the promoter of the obnoxious proceedings, as well as to blame him for the boldness with which he exposed the licentiousness of the press, and the severity with which he punished the convicted. His judgments indeed in all criminal cases were considered severe, and that pronounced against Lord Cochrane, found guilty of a charge of conspiracy (his complicity in which was never positively proved and is now more than doubted), was particularly condemned. The most degrading part of it was immediately remitted, and the sentence led to the abolition of the punishment of the pillory, except for perjury. Even Lord Cochrane's own counsel acknowledged the judge's strict impartiality on the trial, and fairly attributed the sentence to his abomination of

all fraud, and to his determination to prove that in the eyes of the law there can be no distinction of persons.

Few judges have equalled him in learning, sagacity, and unsuspected integrity, and none have surpassed him. His rule was resolutely firm and inflexibly just, unswayed by the hope of popular applause, or the fear of popular frenzy. Yet though the admiration and respect which must necessarily attend those qualities could not be withheld from him, he failed in securing the affection of those over whom he presided. His severity of demeanour, his intolerant manner, and his frequent petulance, naturally produced more fear than love. In the exercise of his wit, of which he had a large share, there was too much sarcasm and ridicule; and in the numerous examples of it, which have been over and over again repeated, there is scarcely one of them which, however it may amuse the hearers by its humour, does not inflict a wound upon its victim. These were but trifling blots in his character, the great excellencies of which are thus eloquently summed up by one who had long practised under him, and had himself suffered from his attacks: "He could powerfully address the feelings, whether to rouse indignation at cruelty, or contempt at fraud, or scorn at meanness. For his own nature had nothing harsh in it, except his irritable temper, quickly roused, and quickly appeased; his mind was just, abhorring any deviation from equity; his nature was noble, holding in utter contempt everything low and base; his spirit was open, manly, honest, and ever moved with disgust at anything false or tricky."[1]

At length overcome by his incessant labours he felt the necessity of retiring. His resignation was received by the Government with real regret, and the Prince Regent, in an elegant and eloquent letter expressed his sorrow. This event

[1] Lord Brougham's Hist. Sketches (1845), vi. 8.

occurred on November 6, 1818; and in little more than a month he ceased to live. He died on December 11, at his house in St. James's Square, and was buried in the Charter House, the place of his early education, where an excellent statue of him has been placed. Of that establishment he is the solitary instance of one who from being a scholar on the foundation had risen to the rank of a governor.

In 1789 he married Ann the lovely daughter and heiress of George Phillips Towry, Esq., formerly in the royal navy; and by that union he was the father of five sons and five daughters. Edward, the eldest, for his services to the State was in 1844 promoted to an earldom: and Charles Ewan, the second son, held the important office of recorder of London, and was M.P. for the University of Cambridge, at the time of his early death.[1]

## LAWRENCE, SOULDEN.

JUST. C. P. 1794. JUST. K. B. 1794; JUST. C. P. 1808.

THE heralds trace the Lawrences as far back as a knight who was honoured with their present shield of arms, by Richard, Cœur de Lion, for his bravery at the siege of Acre. Another of the family was seneschal to Henry, Earl of Lancaster, in the reign of Edward III. Two others received baronetcies, of Iver and Chelsea in 1628, and of St. Ives in 1748; both of which are extinct. The great-grandfather of the judge was physician to five crowned heads and died in 1714; leaving a son, who was a captain in the Royal Navy, and the father of Dr. Thomas Lawrence of Essex Street in the Strand, president of the College of Physicians; to whom was born in 1751, Soulden, the future judge.

After commencing his education at St. Paul's School, and

[1] Lives, by Townsend, Lord Campbell, &c. See also Law and Lawyers, i. 15, 32, 193, 344; ii. 18.

finishing it at St. John's College, Cambridge, where he took his degree of B.A. in 1771, coming out seventh wrangler, and of M.A. in 1774, he was elected fellow of his college, and became a benefactor to its library. Having been called to the bar by the Inner Temple in June 1784, he soon attracted attention by his legal acquirements, and was honoured with a serjeant's coif in 1787. Seven years afterwards, on the death of Mr. Justice Gould, he was raised to the bench of the Common Pleas in March 1794; but in the course of a month exchanged his seat with Mr. Justice Buller, for one in the Court of King's Bench, receiving of course the honour of knighthood.

The Reports of the time will show how well he justified the selection; and the soundness of his law was not questioned when he differed in opinion, as sometimes he did, with Lord Kenyon. That chief was succeeded in 1801 by Lord Ellenborough, who had been Sir Soulden's college friend; but after a few years a difference arose between them, which induced the latter to take the opportunity, that the resignation of Mr. Justice Rooke in 1808 gave him, of returning to his original position in the Common Pleas. There he sat for the four following years; when beginning to fail in health, and having served full eighteen years, he resigned in Hilary vacation, 1812. Surviving his retirement only two years and a half, he died on July 8, 1814, and was buried in St. Giles'-in-the-Fields, where many of his family are also interred, and where there is a monument to his memory.

He was a great favourite with the bar, who respected him for his learning, and loved him for his courtesy,—a habit to which there was no exception, unless it was a little roughness towards those who were connected with the newspaper press. He was so conscientious a judge, that by a codicil to his will, he directed the costs to be paid to a litigant, who had been

defeated in an action, in which he considered that he had wrongly directed the jury.[1]

## LEACH, JOHN.

V. C. 1817.

*See* under the Reigns of George IV. and William IV.

## LE BLANC, SIMON.

JUST. K. B. 1799.

THIS amiable judge was the second son of Thomas Le Blanc of Charter House Square, London, Esq. and was born about the year 1748. Admitted a pensioner of Trinity Hall, Cambridge in January 1766, he became a scholar in November following; proceeded LL.B. in 1773, and was elected a fellow of his house in January 1779. While at the university he formed friendships with Lord Ellenborough and Sir Vicary Gibbs. He entered on the study of the law at the Inner Temple in February 1771, and having been called to the bar in February 1773, before many years he gained by his knowledge of law so much success, especially on the Norfolk circuit, as to warrant him in accepting the degree of the coif in Hilary term 1787. In the Common Pleas he obtained a considerable lead; and in 1791 he was chosen as counsel for his Alma Mater.

On the resignation of Sir William Henry Ashhurst he was promoted on June 6, 1799, to the post of justice of the King's Bench, and knighted. In that court he sat for nearly seventeen years, with the character of an excellent lawyer and a conscientious and impartial judge. The absence of incidents worthy of being related in so long a period,—if we may except an atrocious libel on him in a newspaper called

[1] Hoare's Wilts.; Freshfield, p. 74; Gent. Mag. lxxxiv. P. II. p. 92; lxxxv. P. II. pp. 12–17; Notes and Queries, Third Series, iii. 18, 395.

"The Independent Whig," in 1808, for which the editor was speedily punished by a long imprisonment,[1]—is a proof that the whole of it was employed in the regular discharge of duty, uninfluenced by political bias, or personal prejudice. There is not a more graceful testimony that this was the case with Sir Simon Le Blanc, than the sentence "Illo nemo neque integrior erat in civitate, neque sanctior," with which his death at his house in Bedford Square on April 15, 1816, is recorded by the respected reporters of his court, Messrs. Maule and Selwyn (vol. v. p. i.)

## LLOYD, RICHARD.

B. E. 1760.

*See* under the Reign of George II.

The name of Lloyd is as common in Wales as the name of Smith in England, but its pedigree is much longer, extending upwards to the royal tribes of that principality. Without a clue to guide, the inquirer may search in vain amidst its various ramifications for any particular individual bearing this patronymic. The only information as to the lineage of Sir Richard Lloyd is to be found in the books of the Middle Temple, where he was admitted on February 9, 1719, as the son and heir of Talbot Lloyd of Lichfield, deceased. He was sent for his early instruction to the grammar school of that city, where no less than four of his contemporary judges were educated, viz. Lord Chief Justice Willes, Chief Baron Parker, Mr. Justice Noel, and Sir John Eardley Wilmot. Called to the bar in 1723, he was elected a bencher of his inn in 1728, and autumn reader in 1744. About that time he was made one of the king's counsel; and in the next year he is represented as a candidate for the office of solicitor-general by the author of the "Causidicade," who thus describes his pretensions:

[1] State Trials, xxx. 1131–1322.

"When silence was broke by good Co—nc—llor Ll—d :—
'K—g's C——l I am, and of merit not void,
I stand, as it were, next oars in my title;
Besides my pretensions by blood's not a little:
From the Ancient Britons my lineage is sprung,
The roll of my pedigree's fifty yards long!
The first of my ancestors held this same place,
In the reign of King Lucius, the first king of grace.'
'Not merit of ancestry here will suffice,'
Quo' my Lord, 'nor the length of your roll or device;
Tho' oft in the papers preferment you get,
His Majesty hardly has heard of you yet.'"

In 1746 he opened the indictment against Lord Balmerino in the House of Lords; and is on that occasion designated a knight. He was returned to parliament in 1745 for the borough of St. Michael's, in 1747 for Maldon, and in 1754 for Totnes; but only two of his speeches are recorded, one on the Westminster election in 1751, and the other on the repeal of the Jew bill in 1753.[1] In the next year he was at last advanced in the king's service, succeeding Sir William Murray as solicitor-general in Easter term, 1754. The prime minister, the Duke of Newcastle, evidently had not a high opinion of him; for on the death of Sir John Strange in the following May he intimated to Lord Hardwicke that if Sir William Murray took the office of master of the Rolls, Sir Richard Lloyd's character would not support him as attorney-general; and that if Sir William did not take the office, Sir Richard would make a very improper master of the Rolls. He says in the same letter that he is afraid that Sir Richard "would never take the chief justice of Chester," as he doubts that "the circuits would be incompatible with his views to the chair." On the change of the ministry in November 1756 he was removed to make way for the Hon. Charles Yorke; but on November 14, 1759, his ambition was obliged to be satisfied by being placed on the bench of the Exche-

[1] State Trials, xviii. 463; Parl Hist. xiv. 883, xv. 153.

quer, in the room of Mr. Baron Legge who had died in the previous August.

His judicial career was very short. Within two years after his appointment he died at Northallerton on September 6, 1761, on his return from the northern circuit. His wife, Elizabeth, daughter of William Field, Esq. of Crastwic in Essex, survived him for twenty-seven years.[1]

LOUGHBOROUGH, Lord. *See* A. Wedderburn.

## MACDONALD, ARCHIBALD.

Ch. B. E. 1793.

A lineal descendant of the old Lords of the Isles, Sir Donald Macdonald of Slate in the county of Antrim, was created a baronet of Nova Scotia by Charles I. in 1625. The seventh baronet was Sir Alexander, who by his second wife, Margaret, daughter of Alexander, ninth Earl of Eglinton, was father of three sons, the two elder of whom succeeded in turn to the title, and the latter was in 1776 raised to the barony of Macdonald in the peerage of Ireland, which his representative still enjoys. Archibald, the youngest of the three sons, was born soon after his father's death in 1746, and received his education at Westminster School; the dramatic performances of which he attended till his death.

On being called to the bar in England, his connection with Scotland ensured him liberal employment in appeals from that country to the House of Lords; and in the courts of Westminster, though he had not great practice, he acquired such a character as a lawyer as to be engaged in the great Grenada case in 1775, for his argument in which he was highly praised by Lord Mansfield.[2] His success at the bar

[1] Henley's Lord Northington, 11; Harris's Lord Hardwicke, iii. 12, 96; Wright's Essex, ii. 790; Gent. Mag. in annis.

[2] State Trials, xx. 287, 303, 306.

was sufficient to enable him in 1777 to contract a marriage with Louisa, the eldest daughter of Granville, second Earl Gower (afterwards Marquis of Stafford). Such a union was a certain precursor of promotion to one who possessed competent legal qualifications, and Macdonald soon reaped the advantage of it. In the same year he was made one of the king's counsel, and was returned to parliament to supply a vacancy in the borough of Hindon. In the House of Commons he supported Lord North in the American war; but in December 1779 he made what is described in the Parliamentary History as "one of the severest attacks upon that minister in his personal character that was ever known in a house of parliament,"—an attack which seems to have been wholly unprovoked, and for which he deemed himself called upon to apologise. In the parliament of 1780 he was returned for Newcastle-under-Lyne in conjunction with his brother-in-law Lord Trentham; and continued his support to Lord North while he remained prime minister. But when that nobleman afterwards joined Mr. Fox in the Coalition Ministry, he strenuously opposed the unholy alliance, and made an able speech against the famous East India Bill in answer to Mr. Erskine. From the very first entrance of Mr. Pitt into the senate in 1781 Mr. Macdonald attached himself to that remarkable man, anticipating his future greatness; and fought boldly by his side in the doubtful parliamentary conflict that raged after the dispersion and ejection of the Coalition in December 1783.[1] He was not long in receiving his reward, being appointed solicitor-general on April 8, 1784. To the parliaments of 1784 and 1790 he was returned by his old constituents, and while he continued in the House of Commons he was a steady and useful adhe-

[1] Parl. Hist. xix. 1391, xx. 1228, 1241, xxi. 1269, xxiii. 1297, xxiv. 375, 558.

rent to the minister, particularly in reference to the king's illness in 1789.

In his professional career he had previously in 1778 been one of the counsel to support the application for a criminal information against Captain Baillie, in opposing which Mr. Erskine produced so wonderful an effect on his first appearance at the bar: and in 1780 he had been appointed a Welsh judge on the Carmarthen circuit. After filling the office of solicitor-general for four years he succeeded Sir Pepper Arden as attorney-general on June 28, 1788, and was then knighted. It fell to his lot to prosecute Stockdale by order of the House of Commons, for publishing Mr. Logan's defence of Mr. Hastings; and also Thomas Paine as the author of the Rights of Man; both of them affording Mr. Erskine opportunities of displaying his extraordinary oratorical powers, in the former case with a success which he could not expect in the latter. In the exercise of his office Sir Archibald was distinguished for his prudence and humanity, which Mr. Burke acknowledged was a striking feature in his character; though in the latter years of his official life the seditious spirit that then prevailed obliged him to institute several prosecutions.[1]

On the elevation of Sir James Eyre to the chief-justiceship of the Common Pleas, Sir Archibald was promoted to the place of lord chief baron of the Exchequer on February 12, 1793, a post for which his discriminating powers and judicial mind peculiarly fitted him. In the next year a charge which he delivered to the grand jury of Leicester on the state of the times was considered so apposite that at their request it was published. After a presidency of twenty years, esteemed by all for his careful and impartial administration of the law, for his patient attention to every argument, never interrupt-

[1] State Trials, xxi. 61, xxii. 247, 285, 380; Parl. Hist. xxix. 512.

ing the speaker, as well as for the kindness of his disposition and the courtesy of his manners, he retired into private life in November 1813; and in the same month was rewarded with a baronetcy. He survived his resignation nearly thirteen years, and died on May 18, 1826. His grandson is now the third baronet.

MANNERS, LORD. *See* T. M. SUTTON.

MANSFIELD, EARL OF. *See* W. MURRAY.

## MANSFIELD, JAMES.

CH. C. P. 1804.

IN the year 1729 an Act was passed for the regulation of attorneys (St. 2 Geo. II. c. 23), requiring them among other things to be enrolled. Under that statute the father of Sir James Mansfield, who was an attorney practising at Ringwood in Hampshire, is entered on the roll, both of the Common Pleas and Chancery, in November 1730 as John James Manfield. It has been a question when the name was altered to Mansfield, and what was the motive. The Ringwood attorney was the son of a gentleman who came to England with one of the Georges, and held an appointment in Windsor Castle; and it was asserted that the attorney thought it more advantageous to him to anglicise his name by calling himself Mansfield. But it is clear that he had not formed this determination in 1730, when he was in practice. Neither had he done so in 1746, when his son then aged thirteen was entered at Eton as James Manfield; nor in 1750 when he appears under the same name on the list for King's College, Cambridge; nor in 1751 when admitted a scholar, nor in 1754 when nominated a fellow of that college. But on taking his degree of B.A. in 1755 he signed his name Mansfield. By this date the imputation, which has prevailed, that he made the alteration with the

hope of being supposed to be connected with the great lord chief justice, entirely falls to the ground, inasmuch as Sir William Murray did not receive the title of Lord Mansfield till the end of the following year, November 1756.[1]

He entered the society of the Middle Temple under that name in February 1755, and was called to the bar in November 1758. He began to practice in the Common Law courts, but ultimately removed into Chancery, where he was very successful. In 1768 he was one of the counsel for John Wilkes on his application to be admitted to bail; and four years after in Michaelmas 1772 he was made king's counsel. His university appointed him their counsel, and returned him as their representative to the parliament of 1774. On the trial of the Duchess of Kingston for bigamy in 1776 he appeared for the defendant, when, though he failed in procuring her acquittal, he succeeded in obtaining her release without any punishment at all. In the same year he unsuccessfully defended General Smith and Thomas Brand Hollis against a charge of bribery in the notorious case of the borough of Hindon. He next appeared on the part of the crown on the trials of James Hill for setting the Rope House at Portsmouth on fire; and of George Stratton and others for deposing Lord Piggott, the governor of Madras, and assuming the rule of the settlement.[2]

From his entrance into parliament in 1774 there is no report of his taking any part in the debates till just at the close of the session of 1780; and his first appearance was somewhat unpropitious, as he excited the risibility of the whole house by a careless expression about the civil list. In September of that year he accepted the solicitor-generalship,

[1] William Durrant Cooper, Esq., John Halsey Law, Esq., and Messrs. C. H. and Thompson Cooper, of Cambridge, have kindly furnished me with the respective entries on the Rolls of Attorneys, and on the Eton College and University Records.

[2] State Trials, xx. 403, 1240, 1270, 1319; xxi. 1061.

and held it during the remainder of Lord North's administration. While in office he was engaged in the prosecution of those concerned in the riots of 1780, and in that of Lord George Gordon he had the disadvantage of replying to the splendid speech of Mr. Erskine for the prisoner, resulting in an acquittal. The same duty devolved upon him on the trial of De la Motte for high treason, whose palpable guilt ensured a conviction. On the defeat of Lord North's ministry in March 1782, Mr. Mansfield was necessarily superseded; and immediately placed himself in the ranks of the opposition. He was unfortunate in his first appearance on that side, being called to order no less then three times for some irrelevant remarks of dangerous tendency, and coming into collision with Kenyon, the new attorney-general. Soon after the constitution of the Coalition Ministry, which quickly supplanted the administration of Lord Shelburne, Mr. Mansfield was again appointed solicitor-general in November 1783, but was fated to be again removed in less than a month, the Coalition having in its turn succumbed to the ministry of Mr. Pitt.[1]

In the new parliament called in the following May, Mr. Mansfield had the mortification of surrendering his seat for the university of Cambridge to the popular minister, and never afterwards entered the house. He remained unemployed for nearly sixteen years, when in 1799 he was constituted chief justice of Chester. Five years afterwards, at the close of Mr. Addington's administration, he succeeded Lord Alvanley as chief justice of the Common Pleas in April 1804, and was thereupon knighted. The motto on his rings on his necessarily taking the degree of a serjeant, alludes humorously to his long exclusion: "Serus in cœlum redeas." On the death of Mr. Pitt in 1806 and the forma-

[1] Parl. Hist. xxi. 193; xxiii. 9; State Trials, xxi. 621, 794.

tion of the Whig ministry he was pressed to accept the Great Seal, but positively declined the honour; and his wisdom in the refusal was exemplified by the dismissal of that party in little more than a year.

Though a good average lawyer his promotion occurred rather too late in life; and though anxious to dispense justice in the cases that came before him, he was too apt to give way to the irritation of the moment. Of this deficiency of temper the serjeants were not backward in taking advantage; and towards the end of his career they worried him to such a degree that he could not always refrain from venting in audible whispers curses against his tormentors. He was an amiable man, but had not got rid of the habit of swearing, which was too prevalent in his earlier years. So great was the annoyance that he resigned his post in Hilary vacation 1814.

He lived nearly eight years afterwards, and died on November 23, 1821, at his house in Russell Square, in the eighty-eighth year of his age.[1]

## MASERES, FRANCIS.

Curs. B. E. 1773.

*See* under the Reign of George IV.

## MURRAY, WILLIAM, Earl of Mansfield.

Ch. K. B. 1760.

*See* under the Reign of George II.

There never has been a judge who was more venerated by his contemporaries, nor whose memory is regarded with greater respect and affection, than William Murray, Earl of Mansfield, and any biographer, even at this distance of time,

[1] Gent. Mag. December 1821, p. 572.

must be conscious that he will fail to give satisfaction to those frequenters of Westminster Hall, who still look upon him as the great oracle of law, and the founder of commercial jurisprudence. To give a full and true description of his excellence as an advocate, a judge, a senator, or as a man, would require a far greater space, even if the power existed, than can be afforded in a work of this nature. The present author feels that he need not venture on the attempt, as the task has been already undertaken by various writers. The leading facts in the history of this great man, with a full detail, though very unartistically related, of his opinions and judgments, by Holliday, published soon after his death,—the able and discriminating lives by Burke in the "Law Magazine," and by Roscoe in "Lardner's Cyclopædia,"—and the more recent memoir by Lord Campbell in the "Lives of the Chief Justices," in which all that is valuable in the previous works is recapitulated, render it unnecessary to trouble the reader with another repetition, or to do more than give a faithful record of the leading events of the chief justice's interesting career.

The antiquity of the Scotch family of Murray is too well known to require detail; and the glory of the titles of Viscount Stormont and Lord Balvaird has been eclipsed and extinguished by the superior claims of a cadet of the house, from whose time the name will be for ever associated with law and literature, the titles themselves being merged in the superior rank of the Earl of Mansfield, the just reward of his merits.

William Murray was the fourth son of David the fifth Viscount Stormont and third Lord Balvaird, being one of fourteen children borne to him by Margery, daughter of David Scot of Scotstarvet, of the noble family of Buccleugh. He was born at his father's palace of Scone, near Perth, on March 2, 1704-5. Lord Campbell contradicts Mr. Holli-

day's account that he was removed to England at three years of age, and states on competent authority that he was educated at the grammar-school at Perth till he was fourteen years old, when he was sent to Westminster School. He entered that establishment in May 1718, and was elected king's scholar in the next year. Here his proficiency was so great, both in his exercises and declamations, that at the examination in 1723 he was placed at the head of the list selected for Christ Church, Oxford. In his admission there on June 18, his place of birth is mistakenly written "Bath," owing probably to the broad pronunciation of the word "Perth" by the giver of his description. Though intended for the church, he felt a natural vocation for the bar, in which he was conscious that his father with his fourteen children could not afford to indulge him. Fortunately for the world he was enabled to gratify his inclination, by the assistance of the first Lord Foley, whose son had formed an intimacy with him at Westminster, and who had in his visits in the holidays been at once taken by his amiable disposition and promising abilities. He was accordingly entered at Lincoln's Inn on April 23, 1724. In both he pursued his studies assiduously. In the former, besides industriously mastering the usual academic course, he especially devoted himself to the improvement of his natural powers of oratory, taking Demosthenes and, above all, Cicero as his models. In the latter his sedulous application was successfully employed in acquiring that knowledge of practice and of law, by which he was enabled so soon to prove himself an accomplished advocate, and to use his eloquence, not in mere ornamentation, but in unravelling the contradictory facts and the abstruse points of the cases which he might have to conduct. At Oxford he took his degree of B.A. in 1727, at the same time gaining the prize for a Latin poem on the death of George I.; and in June 1730 he became M.A. and

was called to the bar at Lincoln's Inn on November 23. Two beautiful and eloquent letters which he addressed about this time to the young Duke of Portland, pointing out a plan for his grace's study of ancient and modern history, are undeniable proofs of his solid attainments and extensive learning. Holliday gives them in his Life; and they show how deep had been his study of the subjects, and how well he had prepared himself to discuss any constitutional question that could arise.

In the interval between his two degrees he familiarised himself with the courts by frequenting Westminster Hall, and he practised his argumentative and rhetorical powers by discussing knotty questions of law at a debating society. As a relaxation from his severer studies he amused himself with the current works of literature, and by associating freely with that class to which his rank and his talents gave him an easy introduction. Though strictly temperate in his habits, Boswell tells us that he sometimes "drank champagne with the wits;" introduced probably by Alexander Pope, with whom he had from boyhood contracted an intimacy, and who showed his affection for his young friend not only by devoting some lines at an early period of his career to an eulogistic allusion to his merits, and even by dedicating to him the Imitation of the First Book of Horace, but also by teaching him to add grace of action to the charm of his voice. On one occasion an intimate friend, it is said, surprised him in the act of practising before a glass, with Pope sitting by as his instructor.

He spent the long vacation previous to his call to the bar in travelling on the continent; and at the end of November 1730 he commenced his career as a barrister in the court of Chancery. That for the first eighteen months he was entirely without adequate encouragement, as has been asserted, seems scarcely probable, since he is found at the

end of that time to be engaged in no less than three appeals in the House of Lords, one of which was on the all-absorbing subject of the South Sea Bubble. He so distinguished himself by his arguments in them that, whatever may have been his former progress, no doubt of his advance could any longer exist. Not only was he immediately engaged in numerous cases before the same august tribunal, but he came into regular employment in Westminster Hall, where his rising fame was universally recognised. This was fully confirmed by his eloquent defence of Colonel Sloper in an action of *crim. con.* brought against him by Theophilus Cibber; and by his argument before parliament against the bill to disfranchise the city of Edinburgh on account of the Porteous Riots; in gratitude for which that corporation presented him with the freedom of the city in a gold box. The dean and chapter of Christ Church also complimented him with the nomination of a student in their college, in acknowledgment of his successful efforts in the court of Chancery on a question of much importance to them.

Refusing to involve himself in politics he declined a seat in parliament offered to him, and diligently applying himself to his profession he soon became its head in point of business and character, though not honoured with a silk gown. But in November 1742, soon after the dissolution of Sir Robert Walpole's ministry, he was made solicitor-general, and entered parliament as member for Boroughbridge; succeeding Sir John Strange in the office, and Colonel Tyrrell in the seat. He was immediately elected a bencher of Lincoln's Inn. He held the post of solicitor for twelve years, and on the promotion of Sir Dudley Ryder in May 1754 took his place as attorney-general, which he held for two years more.

His success in the House of Commons was as brilliant as it was at the bar. During these fourteen years he continued

to sit for Boroughbridge, and from his entrance into the senate till the hour of his removal from it he acquired by the force of his arguments, by the clearness of his expositions, and by the eloquence in language, manner, and action in which they were clothed, an undisputed ascendency, outshining every other speaker, except his chief antagonist and rival Mr. Pitt, whom he equalled in everything but the power of invective. To him the Pelham administration were indebted for the most effective support of their measures; and in that of the Duke of Newcastle he was the trusted leader and almost the entire prop of the Government. When the weakness of that Government was nearly overcome by a powerful opposition, the death of Sir Dudley Ryder, chief justice of the King's Bench, occurred, and so essential to the existence of the ministry was the continuance of the attorney-general deemed in the House of Commons, that though Sir Dudley died in May 1756 the office was not filled up till November, the interval being occupied by the offer to Sir William of every species of inducement in the shape of tellerships, reversions, and a large pension, to induce him to forego his acknowledged right to the office. Murray however resisted all temptation, and at last was obliged to tell the duke that, if not immediately appointed chief justice and created a peer, he would no longer sit in the house as attorney-general. The duke was obliged to submit; but with the loss of his able lieutenant, was soon forced to resign his command.

These negotiations account for Trinity Term being allowed to pass without the appointment of a chief justice; for there could be no doubt that the attorney-general, as well from his professional ascendency and official rank, as from his political services, had the only legitimate claim to the promotion and could not have been passed over except with his own consent. Not only would the whole of Westminster Hall have been

indignant, but the general public, from whom his superior merits could not be concealed, would have been greatly surprised and disappointed. In the exercise of his official duties as solicitor and attorney-general he had never outraged popular feeling by undue severity; and against the few prosecutions which he sanctioned, or his manner of conducting them, no possible objection could be raised. His success in those he instituted was to be attributed to his rule never to prosecute where there was any risk of failure. In the proceedings against those implicated in the Rebellion of 1745 he was necessarily concerned for the Crown, but was careful to avoid everything that could aggravate the crimes of the prisoners, or inflame the passions of those who were to try them. In all the trials, and more particularly in that of Lord Lovat, he exercised a degree of candour and humanity which drew forth the admiration of all his hearers. In reference to that rebellion an absurd charge was made against him, that he had in his youth joined some Jacobite friends in drinking the health of the pretender on his knees. Although the king treated the imputation with the contempt that it deserved, the folly of one of the parties implicated forced an inquiry before the Privy Council, in which Murray indignantly denied its truth. The result of course was a complete acquittal from every part of it. His last appearance as a barrister was one of the most graceful of his life. On the ceremony of taking leave of Lincoln's Inn for the purpose of being called to the degree of the coif, he delivered a farewell address, in which, after a well-merited and eloquent eulogy of Lord Hardwicke, the chancellor under whom he had practised, he paid an elegant compliment to the Hon. Charles Yorke, the treasurer, who had delivered to him, with warm congratulations, the customary offering of the society.

He received his appointment as lord chief justice of the

King's Bench, and his patent of creation as Lord Mansfield of Mansfield in the county of Nottingham, on the same day, November 8, 1756. From that date for the long period of thirty-two years he presided over his court with such extraordinary power and efficiency that by his learning, discrimination, and judgment he not only gained the admiration of all who were competent to appreciate them, but by the fairness and impartiality of his decisions, and by the patient courtesy of his manners, his private virtues, and the firmness he displayed in trying circumstances, he lived down and nullified the charges and insinuations which jealousy and party spirit at one time raised against him. He introduced some reforms in his court, and removed some impediments in its practice, which had much delayed the decision of the causes and unnecessarily increased the expense of the suitors; and by his punctuality and despatch he kept down all accumulation of arrears, and thus was enabled to meet the vast increase of business which was caused by the advancing commerce of the country. In dealing with the numberless cases arising from this increasing commerce, he not only carefully weighed the justice of the particular claim, but laid down the principle upon which all similar questions should be in future decided, and in the end established such a system that, in the words of Mr. Justice Buller, he acquired the character of being "the founder of the commercial law of the country." Though his decisions both in this branch of law and on other questions in reference to colonial and international principle, are most curious, satisfactory, and instructive, a detail of them would fail to be interesting. But some of those which will be ever connected with his name deserve to be commemorated. He first pronounced that a slave once brought into England became free; that Turks, Hindoos, and others of different faith from our own, may be sworn as witnesses according to the ceremonies of their own

religion; that governors of English provinces are amenable in English courts for wrongful acts done while governors against individuals; and that the property of wrecks does not belong to the king or his grantee, where it can be identified by the real owner, although no living thing comes to shore with the wreck.

Though, besides the three judges whom he found on the bench of his court, there were no less than eight who took their places afterwards as his colleagues, it is a strong evidence of the soundness of his law that during the thirty-two years of his presidency there were only two cases in which the whole bench were not unanimous: and, what is still more extraordinary, two only of his judgments were reversed on appeal: but some of them were not entirely approved by the legal community. The system on which he acted was censured as introducing too much of the Roman law into our jurisprudence; and he was charged with overstepping the boundary between equity and law, and of allowing the principles of the former to operate too strongly in his legal decisions. How far these criticisms were justified still remains a question: but recent legislation proves how little his system deserved censure. Lord Thurlow used to say that Lord Mansfield was "a surprising man; ninety-nine times out of a hundred he was right in his opinions and decisions; and when once in a hundred times he was wrong, ninety-nine men out of a hundred would not discover it. He was a wonderful man."

He was particularly attentive to the students who attended his court, admitting them to sit on the bench with him, and explaining the points that happened to be raised. In his time the king's counsel used the same courtesy towards the young aspirants; but after the accession of Lord Kenyon the practice was discontinued both by the bench and the bar.

In the upper house of parliament he shone with as much brilliancy as he had done in the lower. During the greater part of his senatorial life the Parliamentary History contains comparatively few of his speeches, because the prohibition against reporters was rigidly enforced. But those which have been by other means given to the world amply confirm the general opinion of their elegance and effectiveness, and justify the universal admiration which they elicited. His contests with his old antagonist in the House of Commons, the Earl of Chatham, were renewed with even more virulence than formerly, and, when they were expected to occur, were attended by crowds desirous of witnessing the gladiatorial exhibition. Though he was as often the victor as the vanquished in these trials of strength, it would have been better for his fame if he had more strictly confined himself to judicial questions. However transcendent his talents, political controversy should be avoided by a judge, whose decisions should never be subjected to the suspicion even of political bias. The last intended display between the two combatants was on the subject of the American war in 1778, but was prevented by the fatal seizure of the great statesman at the commencement of his address.

Though several times pressed to accept the office of lord chancellor, he persisted in his refusal to change his court, from his love of the position he held and his conscious aptitude for its duties, as well as from the uncertainty attendant on the possession of the Great Seal. Soon after he became chief justice he by virtue of that office received the seal of chancellor of the Exchequer during the three months' vacancy occasioned by the removal of Mr. Legge; but he performed no other than its formal duties; and ten years after he again temporarily held that office on the death of the Hon. Charles Townshend. On the establishment of the joint ministry of Mr. Pitt and the Duke of Newcastle in

1757, the coalition between whom he was the principal instrument in effecting, he consented to become, with questionable propriety, one of the cabinet council. He remained so for some years; and this was no doubt the cause of the unpopularity under which he laboured in the early part of the reign of George III.—an unpopularity which was not diminished by the suspicion that he was the secret adviser of his sovereign by his continued defence of ministerial measures in the House of Lords, and by his acting subsequently for a long period as Speaker of that assembly;—an unpopularity which was kept alive and greatly increased by the virulent attacks made against him by Junius, which continued till that bold, powerful, and impudent writer was in 1772, by means yet unknown, effectually silenced. Yet during the whole period his fame as a great magistrate was spreading over the whole of Europe as well as in his own country; and there even the populace might have seen his disregard of political influence, in his affirmation of the verdict against those who had illegally acted under the general warrant against the "North Briton," and in his reversal of the outlawry of the demagogue Wilkes, its disreputable author. Though assailed with abuse, lampoons, and personal threats, the most uncharitable of his libellers could not but be impressed by the noble and dignified speech made by him on granting that reversal.

His liberal opinions on the subject of religion, and the principles of toleration which he advocated in all cases in which the question arose, whether relating to Dissenters or Roman Catholics, while they raised him in the estimation of the honest and well-disposed, had a contrary effect on the bigoted class of society, by whom the old story of his being a Jacobite was revived, with the additional stigma of his being a Jesuit in disguise. The sad effect of these mistaken notions appeared in the disgraceful No Popery riots of 1780, in

which he was not only personally attacked and insulted, but his house in Bloomsbury Square, containing his valuable library, was burnt down to the ground by the mob. Nothing more tended than his conduct on that occasion to establish his character, and to dissipate and overcome the prejudices against him, which some men still continued to foster. The courage also which he displayed when the Houses of Parliament were threatened, the philosophic calmness with which he met his personal calamity, his generous justification of ministers in calling in the military to quell the riots, and particularly his impartiality and total absence of resentment in the trial of Lord George Gordon, whose violent harangues had first evoked the outbreak, excited universal admiration, and increased the respect with which he was regarded.

For six years after this event he continued to exercise, almost without a day's intermission, the functions of his high office, when, being then eighty-one years of age, his weakness and infirmity prevented him attending the court. He did not immediately resign, but with the expectation of being enabled still to act he delayed his retirement for nearly two years, leaving a most efficient substitute to perform his duties. This was Mr. Justice Buller, whom he hoped to see, and endeavoured to induce the minister to appoint, his successor. But when he found that Mr. Pitt had determined otherwise, and that his declining strength totally prevented him from again taking his seat, he closed, on June 4, 1788, a legal career which had extended over fifty-eight years, twenty-six as an advocate, and thirty-two as a judge; in both capacities achieving such a character as few can equal, and none will ever surpass. Both branches of the profession expressed in affecting addresses their respect, their veneration, their affection for his person and their regret at his retirement — sentiments in which the whole community united.

The aged lord survived for nearly five years, enjoying life at his beautiful seat at Caen Wood near Highgate, in social and intellectual converse, and with unabated health and undecayed memory, but with increasing feebleness; till the exhausted frame at last gave way on March 20, 1793, having just entered the eighty-ninth year of his age. He was buried in Westminster Abbey, in the same grave as his wife, Lady Elizabeth Finch, daughter of the Earl of Winchilsea, whom he had married in 1738, and who after a happy union of forty-six years had preceded him for nine years. His funeral was attended by his relations and private friends only, according to his testamentary directions; to the disappointment of all parties in the political world, who, with the judges and the bar, were desirous of testifying their respect for so great a man by a public funeral. By the gratitude of one of those whom he had benefited by his advocacy a splendid monument was erected, the work of Flaxman.

When he had graced the seat of justice for twenty years, the king in 1776 rewarded his judicial and political services by creating him Earl of Mansfield in Nottinghamshire, and as he was childless, gratified him by adding a remainder in favour of Louisa the wife of his nephew Lord Viscount Stormont and her heirs by the viscount. The peculiarity of this remainder was occasioned by the disqualification which was then supposed to exist of a Scotch peer from taking an English peerage, even in remainder; but when this doctrine was decided to be erroneous a new patent was granted in August 1792, with the title of Earl of Mansfield of Caen Wood, and with a remainder to his nephew himself. After the chief justice's death (when the barony became extinct) the Viscountess Stormont, under the first patent, became Countess of Mansfield in her own right, while her husband held the title under the second, and was succeeded under the

same patent by her son, until the mother's death in 1843, when the two patents were united in his person.[1]

## NARES, GEORGE.

Just. C. P. 1771.

This judge's father, who was for many years steward to the second and third Earls of Abingdon, had two sons, both of whom became eminent in the professions they selected. The elder was Dr. James Nares of musical celebrity; and the younger was Sir George Nares of legal fame. George was born at Hanwell in Middlesex in 1716. His father having removed to Aldbury in Oxfordshire, he was first sent to the school of Magdalen College, and afterwards was admitted into New College. In 1737 he became a student at the Inner Temple, and was called to the bar in 1741. His marriage in 1751 with Mary, daughter of Sir John Strange, master of the Rolls, is an indication of his early success in his profession. His practice seems to have been principally in the criminal courts, to judge from the speeches he made in defence of Timothy Murphy, convicted of forgery in 1753, and of Elizabeth Canning, convicted of perjury in 1754; both of whom were tried at the Old Bailey.

His professional merit must have been very conspicuous, inasmuch as in 1759 he received the degree of the coif, and was made king's serjeant at the same time. From 1763 to 1770 he was engaged on the part of the Crown in most of the cases arising out of the general warrant issued against the author, publisher, and printers of No. 45 of the "North Briton;" and the unpopularity which he shared with all the opposers of Mr. Wilkes, may perhaps account for Mr. Foote

[1] Lives, by Holliday (1797), Burke, in Law Mag. (1838), and in Welsby's Collection (1846), Lord Campbell (1849), Roscoe (1833). See also Seward's Anecdotes, and Law and Lawyers.

holding him up to ridicule under the character of Serjeant Circuit in his farcical comedy of the "Lame Lover." In May 1768 he was elected member for the city of Oxford, which soon after chose him its recorder. In the fourth session of that parliament, the elevation of Mr. Justice Bathurst to the office of lord chancellor having occasioned a vacancy in the court of Common Pleas, Mr. Serjeant Nares was appointed to supply it on January 25, 1771, and was at the same time knighted. After filling that honourable post with great credit for more than fifteen years, he died at Ramsgate of a gradual decay, on July 20, 1786, and was buried at Eversley in Hampshire. His cheerfulness of disposition and pleasing manners endeared him to his contemporaries, enhanced as they were by the strict integrity of his life and his unaffected piety.

Sir George left several children, one of whom became regius professor of modern history in the university of Oxford.[1]

## NOEL, WILLIAM.

Just. C. P. 1760.

*See* under the Reign of George II.

The ancestor of the noble family of Noel came into England with the Conqueror, and was rewarded with several manors in Staffordshire. Andrew, one of his descendants who flourished in the reign of Henry VIII., was the grandfather of Sir Edward Noel, who was created a baronet (of Brook) in 1611, and Baron Noel in 1617, and succeeded to the viscounty of Campden (by a special limitation) in 1618; dignities which were increased by the grant of the earldom of Gainsborough to his grandson in 1682; but all of which became extinct on the death of the sixth earl in

[1] Chalmers' Biog. Dict.; Gent. Mag. lvi. 622; State Trials, xix. 451, 702, 1153; Harris's Lord Hardwicke, iii. 349; Blackstone's Rep. 734.

1798. Another grandson of the above Andrew Noel was settled at Kirkby Mallory in Leicestershire, and was sheriff of that county. He was the father of Verney Noel, who was made a baronet of that place in 1660. William Noel the judge was the second son of Sir John Noel the fourth baronet, by his wife Mary, daughter and co-heir of Sir John Clobery of Winchestead and Bridstope in Devonshire, knight.

He was born in 1695, and educated in the grammar-school of Lichfield. Entering the Inner Temple in February 1716, he took the degree of barrister in June 1721; and having been chosen recorder of Stamford, he was elected member for that borough in the parliament of 1722; and continued to represent it till the dissolution of that of 1741. In the two next parliaments of 1747 and 1754 he was returned for the Cornish borough of West Looe. The Parliamentary History gives no examples of his senatorial labours, and the reports record very few of his forensic ones. But whether from his family connection or his legal abilities he was nominated one of the king's counsel in 1738, when he was made a bencher of his inn. On the trial of Lord Lovat in 1746 he was one of the managers for the House of Commons, and made a short speech in answer to some of the accused lord's objections.[1] He received the post of chief justice of Chester in 1749, which he retained when he was appointed a judge in Westminster Hall. The latter elevation he owed to the patronage of Lord Hardwicke, who even after he had resigned the Great Seal applied to the king on his behalf on the expected death of Mr. Justice Birch.[2] Mr. Noel was accordingly constituted a judge of the Common Pleas in March 1757; and continued in that court till his death on December 8, 1762.

Horace Walpole calls him "a pompous man of little

[1] State Trials, xviii. 817. [2] Harris's Lord Hardwicke, iii. 111.

solidity;" and the satirical author of the "Causidicade" seems to regard him in the same light, in his description of the pretended contest in 1742 for the office of solicitor-general:

> "As next in pretence up starts Mr. N**l;
> 'Me, your lordship,' quo' he, 'does certainly know well.
> If a gentleman born, and descent of high blood,
> And knowledge of law, which I think pretty good;
> If oft being mention'd in all the newspapers,
> At ev'ry promotion, as one of the gapers,
> Can entitle a man to the place in dispute,
> I presume that, with justice, I can't be left out.'
> 'Your gentility, blood,' says my lord, 'nor your skill,
> Nor for good preferment the lust of your will,
> I call not in doubt, but I pray you go home,
> For this time, at least, for your hour is not come.'"

By his wife Elizabeth, daughter of Sir Thomas Trollope, Bart., he left only four daughters; the eldest of whom, by her marriage with Thomas Hill of Tern in Shropshire, was mother of Noel Hill, created Lord Berwick in 1784; and the third of whom married Bennet Sherard, third Earl of Harborough.

Sir Edward Noel, the son of the judge's elder brother, Sir Clobery Noel, succeeded to the barony of Wentworth in 1745; when, as one of the sons of a father who, had he lived, would have been the heir of that barony, the judge was allowed to attach the title of "honourable" to his name, by which he was afterwards distinguished. To the barony of Wentworth a viscounty was added in 1762, but the viscounty became extinct, with the baronetcy of Kirkby Mallory, in 1815. The barony, after remaining in abeyance for many years, at length devolved on Lady Byron, and is now held by her grandson the son of the Earl of Lovelace.[1]

[1] Collins' Peerage, vi. 211, ix. 405; Wotton's Baronet. iii. 91; Dod's Peerage, 577.

NORTHINGTON, EARL OF. *See* R. HENLEY.

## PARK, JAMES ALAN.

JUST. C. P. 1816.

*See* under the Reigns of George IV., William IV., and Victoria.

## PARKER, THOMAS.

CH. B. E. 1760.

*See* under the Reign of George II.

SIR THOMAS PARKER was a near relation of his namesake, Lord Chancellor Macclesfield, George Parker of Park Hall in Staffordshire, high sheriff of that county in the reign of Charles I., being the grandfather of the chancellor, and the great-grandfather of Sir Thomas, whose father, George, succeeded to the estate of Park Hall. Besides Sir Thomas he had a daughter, who married Swynfen Jervis of Meaford in the same county, and was the mother of the famous admiral, created Earl St. Vincent.[1]

Thomas Parker was born about the year 1695, and received his education at the grammar-school of Lichfield; from whence he was removed to the office of Mr. Salkeld, a solicitor in Brook Street, Holborn, where three other eminent lawyers and judges were at nearly the same time initiated into the mysteries of the science. These were Lord Jocelyn, lord chancellor of Ireland, Sir John Strange, master of the Rolls, and Lord Hardwicke, lord chancellor of England. With the latter he contracted a lasting intimacy, which was greatly increased by the encouragement given by his relative Lord Macclesfield to Lord Hardwicke in the early part of his career. Parker was five years Lord Hardwicke's junior, and was not admitted to the Inner Temple

[1] Harris's Lord Hardwicke, ii. 400; Burke's Landed Gentry, 998; Collins' Peerage, v. 400.

till May 1718, three years after Lord Hardwicke had been called to the bar. He was not himself called till June 1724, Lord Hardwicke being at that time attorney-general. This was less than a year before his noble relative's disgrace; of whose patronage though he was thus deprived, he found an ample compensation in the friendship of Lord Hardwicke, who never forgot what he owed to the persecuted peer, in gratitude to whom he took every opportunity of promoting Parker's advancement. Thus in June 1736, when Parker had been a barrister only twelve years, he was raised to the dignity of the coif, and made king's serjeant at the same time; and in two years after, on July 7, 1738, he was raised to the bench as a baron of the Exchequer. From this court he was removed in April 1740 to the Common Pleas, where he remained till November 29, 1742, when, having been previously knighted, he was advanced to the head of the court of Exchequer as lord chief baron. All these promotions he owed to the gratitude of Lord Hardwicke, which his lordship owned in a letter to the Duke of Somerset, at the same time adding that "Parker was in every way deserving, and has gained a very high character for ability and integrity since his advancement to the bench."[1]

That his previous reputation was not very high appears from the "Causidicade," a poem written shortly after his advancement. In it he is thus noted in connection with Lord Hardwicke:

> "Besides the dunce P . . . . r, at last made Ch . . . B . . . n,
> Your fav'rite, my lord, indeed a most rare one;
> A name once detested in the eye of the law,
> But your lordship is grateful—no more—hem, haw."

And again in a subsequent couplet:—

> "but he who can bend
> Like a reed, or T . m P . . . . r, ne'er wants a good friend."

[1] Harris's Lord Hardwicke, ii. 25.

Lord Hardwicke, even when out of power, did not neglect him, but endeavoured on the death of Sir John Willes to procure for him the chief justiceship of the Common Pleas, and to the last showed his regard by naming him as a trustee under his will.[1]

Sir Thomas presided in the Exchequer for thirty years, when having arrived at the age of seventy-seven he resigned in the summer vacation 1772; being gratified with a pension of 2400*l.*, and being sworn a privy councillor, a post not then usually given to the chief barons while in office. He lived for twelve years after his retirement; during which he published a volume of Reports of Revenue Cases in the Exchequer from 1743 to 1767, which display considerable acuteness. A judgment may also be formed of the manner in which he had executed his judicial functions, by the remark of Lord Mansfield, who on the frequent absence of his successor Sir Sidney Stafford Smythe from infirmity, observed "The new chief baron should resign in favour of his predecessor."[2]

One of his decisions is thus noted in the "Pleader's Guide:"—

> "Parker, Ch . . . B . . . . held that bruising,
> Deem'd so delightful and amusing,
> Is an illegal, dangerous science,
> And practis'd in the law's defiance."

He died on December 29, 1784, and was buried in the family vault at Park Hall. He was twice married; first, to Anne, daughter and coheir of James Whitehall of Pipe-Ridware in Staffordshire; and secondly, to Martha, daughter and coheir of Edward Strong of Greenwich; by each of whom he left issue. The estate of Park Hall is still in possession of his descendants. His daughter Martha became

[1] Harris's Lord Hardwicke, iii. 269, 394.
[2] Lord Campbell's Chief Justices, ii. 571.

the wife of her cousin the Earl of St. Vincent, and the family connection was further kept up by the judge's granddaughter marrying the earl's successor, Viscount St. Vincent.[1]

## PERROT, GEORGE.

B. E. 1763.

GEORGE PERROT was the second of the eleven children of the Rev. Thomas Perrot, Rector of Welbury and Martin cum Gregory in York, and a prebendary of Ripon, by Anastasia, daughter of George Plaxton Esq. of Berwick. He was initiated in the study of the law at the Inner Temple, of which he became a member in November 1728, obtaining his grade of barrister in 1732, and of bencher in May 1757, Two years after he was made a king's counsel, and in 1760 he opened the indictment against Lord Ferrers when he was tried for murder by the House of Lords. In January 1763 he obtained a seat on the bench as a baron of the Exchequer; and Horace Walpole, soon after his appointment, says of him; that "he was so servile as to recommend [a congratulatory address on the peace] from the bench on the circuit;" certainly a somewhat unusual dictation. His power of discrimination may be estimated by his summing up on a trial at Exeter as to the right to a certain stream of water, which he concluded thus: "Gentlemen, there are fifteen witnesses who swear that the watercourse used to flow in a ditch on the north side of the hedge. On the other hand, gentlemen, there are nine witnesses who swear that the watercourse used to flow on the south side of the hedge. Now, gentlemen, if you subtract nine from fifteen, there remain six witnesses wholly uncontradicted; and I recommend you to give your verdict accordingly for the party who called those six witnesses."

[1] Gent. Mag. lv. 77; Burke's Peerage.

His judicial life extended to twelve years, and was terminated by a fit of the palsy with which he was seized at Maidstone during the Lent assizes in 1775, which induced him to resign in the following May, receiving a grant of 1200*l.* a year as a retiring pension. He was never knighted.

He married in 1742 Mary the daughter of William Bower of Bridlington in Yorkshire, and the widow of Peter Whitton who in 1728 was Lord Mayor of York: but left no issue.[1]

## PERRYN, RICHARD.

B. E. 1776.

RICHARD PERRYN was the son of Benjamin Perryn Esq. of Flint. He commenced his study of the law at Lincoln's Inn, but was called to the bar in July 1747 by the society of the Inner Temple, to which he had transferred himself in the previous year, and became a bencher in April 1771. Choosing the court of Chancery for his legal arena, he soon acquired such a reputation there as to be employed in almost every cause. After a long apprenticeship he obtained a silk gown in 1771, and received the appointment of vice-chamberlain of Chester. It is insinuated by a contemporary that he owed his success more to chance than to merit, and that his professional colleagues had no very high opinion of his legal acquirements. On April 5, 1776, he was promoted to a barony in the court of Exchequer, and knighted. After a respectable career of three-and-twenty years as a judge he resigned in the summer vacation of 1799.[2]

## PLUMER, THOMAS.

V. C. 1813. M. R. 1817.

*See* under the Reign of George IV.

[1] Burke's Landed Gentry, 128; State Trials, xix. 894.
[2] 8 Term Reports, 421; Strictures on Lawyers, 175.

## PRATT, CHARLES, Earl Camden.

Ch. C. P. 1762. Lord Chanc. 1766.

This eminent and estimable judge, who acquired more popularity than any other who ever sat on the bench, was the third son of Chief Justice Sir John Pratt by his second wife Elizabeth, daughter of the Rev. Hugh Wilson, canon of Bangor. He was born in 1713, and was educated at Eton. Among his schoolfellows was William Pitt, afterwards Earl of Chatham, with whom he contracted a friendly intimacy, at first personal and eventually political, which was never interrupted till death closed the minister's career. From Eton Charles Pratt proceeded in 1731 to the University of Cambridge, honourably obtaining his election to King's College. Intending to pursue his father's profession he had already, in June 1728, been entered at the Middle Temple; and while waiting for his call and his degree he devoted himself diligently to the study of constitutional law. He took his degree of B.A., as of course, in 1735, and that of M.A. in 1740; having been called to the bar in June 1738, when he was twenty-five years old.

As the son of a chief justice he might fairly have expected early encouragement; but for some years his merits, though highly appreciated by his college associates and his brother barristers, failed to attract the dispensers of business, and his fee-book exhibited almost a total blank. On the eve of riding one of his western circuits he wrote to a friend, "Alas! my horse is lamer than ever; no sooner cured of one shoulder than the other began to halt. My hopes in horseflesh ruin me, and keep me so poor, that I have scarce money enough to bear me out in a summer's ramble: yet ramble I must, if I starve for it." So disheartening were his prospects, that he at last determined to retire on his fellowship at King's, and entering the Church to take his

turn for one of the college livings. This resolution he communicated to his bar friend Sir Robert Henley (afterwards Lord Northington), who strongly dissuaded him from pursuing it, and induced him at least to try another circuit. Henley then contrived to get him retained as junior to himself in an important case, and knowing that his talents only wanted an opportunity to be recognised, feigned illness at the hearing and left his young friend to conduct the cause. This he did in so effective a manner as to secure him that full share of business which relieved him from any future anxiety.

He now had the opportunity of showing his soundness as a lawyer and his eloquence as an advocate, both on the circuit and in Westminster Hall: and the liberal principles which he enforced in those arenas and at the bar of the House of Commons, soon marked him as a rising man. In the trial in 1752 of William Owen for publishing a libel he was engaged for the defence, and boldly insisted on the jury's right to judge both the law and the fact, which to the end of his life he so strenuously, and at last successfully, maintained. Owen's acquittal was one of the earliest instances of a jury adopting the same doctrine. He received a silk gown in 1755, and was appointed attorney-general to the Prince of Wales.

When his schoolfellow Pitt came into power, and the Great Seal was given to Sir Robert Henley the attorney-general on June 30, 1757, Pratt was immediately selected, with the consent of Lord Hardwicke, to fill the vacant post, and thus to be placed over the head of Charles Yorke the solicitor-general. A seat in parliament was found for him as member for Downton in Wiltshire. Here he introduced a bill to extend the provisions of the Habeas Corpus Act to persons under impressment, which though it was almost unanimously passed in the House of Commons, was thrown out by the Lords, being resisted by Lords Hardwicke and

Mansfield. Though the judges were ordered to prepare another bill, it does not appear that they did so; and the remedy it sought to provide was delayed till the year 1803. The recordership of Bath was conferred upon him in 1759. In the parliament called after the accession of George III. he was elected by his former constituents; but within less than two months he vacated his seat for a more prominent position. While attorney-general he confined his practice to the court of Chancery, except when engaged in state prosecutions. In them he exercised the utmost moderation and fairness, not seeking a conviction for the sake of a triumph, but satisfying all men's minds of the delinquency of the accused by the force of the testimony adduced against them.

The death of Sir John Willes in December 1761 created a vacancy in the office of chief justice of the Common Pleas, which was pressed upon Mr. Pratt, though his patron Mr. Pitt was no longer in power. With some reluctance he was obliged to accept it, and was accordingly knighted, and took his seat on the first day of Hilary Term, 1762. In the following year commenced the important proceedings connected with the "North Briton" and its author, John Wilkes. The question of the legality of general warrants, and the actions for damages brought by the sufferers under them against those who executed them, were tried in the Common Pleas, where the known principles of the chief justice led the complaining parties to expect at least an unprejudiced hearing. His independent conduct throughout these investigations, his discharge of Wilkes from imprisonment, his boldness in pronouncing the general warrant of the secretary of state to be wholly illegal, with other similar proceedings in reference to the "Monitor or British Freeholder," raised him to the very height of popular favour. Numerous addresses of thanks were presented to him, with

the freedom of the corporations of Dublin, Norwich, Exeter, and Bath, in gold boxes. The city of London added to a similar honour the request that he would sit for his picture to Sir Joshua Reynolds. This portrait was hung up in the Guildhall, with a Latin inscription, written by Dr. Johnson, designating him the "zealous supporter of English liberty by law." Though these distinctions would seem to be a reflection on the general course of justice, as implying that in no other court would the same opinions have been expressed, it should be remembered for the honour of the law, that the court of King's Bench, upon an appeal in one of the cases, confirmed the ruling of Sir Charles Pratt.

A ludicrous story is told of his being on a visit to Lord Dacre in Essex, and accompanying a gentleman, notorious for his absence of mind, in a walk, during which they came to the parish stocks. Having a wish to know the nature of the punishment, the chief justice begged his companion to open them so that he might try. This being done, his friend sauntered on and totally forgot him. The imprisoned chief tried in vain to release himself, and on asking a peasant who was passing by to let him out, was laughed at and told he "wasn't set there for nothing." He was soon set at liberty by the servants of his host; and afterwards on the trial of an action for false imprisonment against a magistrate by some fellow whom he had set in the stocks, on the counsel for the defendant ridiculing the charge and declaring it was no punishment at all, his lordship leaned over and whispered, "Brother, were you ever in the stocks?" The counsel indignantly replied "Never, my lord." "Then I have been," said the chief justice, "and I can assure you it is not the trifle you represent it."[1]

When Lord Rockingham's administration was formed in 1765, one of the first of its acts was to raise the chief justice

[1] Law and Lawyers, i. 260.

to the peerage, and on July 17, he was created Lord Camden. He commenced his career in the House of Lords by exposing the injustice of taxing the unrepresented American colonies and by strenuously supporting the repeal of the Stamp Act. The Earl of Chatham the next year resumed power, and on the resignation of Lord Northington gratified himself and the public by giving on July 30, 1766, the Great Seal to his old friend Lord Camden with the title of lord chancellor, who received at the same time the reversion of a tellership of the Exchequer for his son, with the usual pension for himself upon his retirement from the chancellorship. He then resided in Great Ormond Street. Ere long his position in the cabinet was anything but satisfactory to him; and after the secession of the Earl of Chatham he so strongly disapproved of many of its measures, especially in regard to the American import duties, and the Middlesex election, that publicly denouncing them as illegal and arbitrary he was removed from his office on January 17, 1770. He was justly blamed for continuing so long in a cabinet, whose counsels were opposed to the sentiments he entertained.

His bearing in the two courts of Common Pleas and Chancery supported the character he had acquired. To his profound legal knowledge and clearness of reasoning were added an attractive benignity and a graceful eloquence, which, according to Mr. Butler, was "of colloquial kind—extremely simple,—diffuse but not desultory. He introduced legal idioms frequently, and always with a pleasing and great effect. Sometimes however he rose to the sublime strains of eloquence; but the sublimity was altogether in the sentiment, the diction retained its simplicity; this increased the effect." Many important questions were ventilated before him in both courts, and in parliament; and though some of his decisions excited considerable controversy, none of them were overturned.

During the next eleven years he stood in the foremost rank of opposition to the ministry of Lord North, uniting with the Earl of Chatham in the arraignment of the American war, and as well in that question as in all others assailing Lord Mansfield with uniform and somewhat undignified acrimony. He evidently felt a deep personal animosity against his learned opponent, who undoubtedly quailed under the severe eloquence of his antagonist. In March 1782 Lord North was obliged to retire, and under the next two short administrations of Lord Rockingham and Lord Shelburne, Lord Camden filled the post of president of the council. During the Coalition ministry, and the first year after Mr. Pitt's accession to power he remained out of office, but resumed it in December 1784. In May 1786 he received the additional titles of Viscount Bayham and Earl Camden.

He continued to enjoy his office for the ten remaining years of his life, actively supporting the measures of his leader, without deserting the principles on which he had founded his fame. Though a zealous Pittite he still continued essentially a Whig—that party becoming every day less distinct from the Tories, in consequence of its more moderate members not concurring in the factious extremes to which the spirit of party led the others. His last appearance in the House of Lords was as the strenuous assertor of the right of juries to decide on all questions of libel; a principle which he had always advocated, and which he lived to see triumphant.

From the commencement to the termination of his public life he was a universal favourite. His independence of character could not fail to secure the respect of his political antagonists, and his amiable disposition to engage the affection of all. Of social habits, yet of exemplary life, he retained the friendship of his youthful companions, and with

true wisdom never failed to provide a succession of intimates to supply the place of those who were departed. His relaxation, like that of Lord Keeper Guilford, was a devotion to music and the drama, and he did not disdain to vary his graver studies with the light literature of the day. In his early years he was the author of a "Treatise of the Process of Latitat in Wales," published anonymously, but afterwards acknowledged.

He died at his house in Hill Street, Berkeley Square, on April 18, 1794, at the age of eighty, and was buried in Seale Church in Kent. His wife, Elizabeth, daughter and heir of Nicholas Jefferys Esq. of the Priory in Breconshire, left him several children. His son succeeded to the earldom, and having held with distinguished honour several responsible employments was created a marquis on August 15, 1812, with the second title of Earl of Brecknock. To relieve the pecuniary pressure of the country he with patriotic and magnanimous self-denial gave up to the state the large annual income derived from his office of teller of the Exchequer. He was elected a knight of the garter; and his son, the present marquis, is decorated worthily with the same order.[1]

## RICHARDS, RICHARD.

B. E. 1814. Ch. B. E, 1817.

*See* under the Reign of George IV.

## RICHARDSON, JOHN.

Just. C. P. 1818.

*See* under the Reign of George IV.

[1] Collins' Peerage, v. 266; Lives, by Welsby and Lord Campbell; Harris's Life of Lord Hardwicke.

## ROOKE, GILES.

JUST. C. P. 1793.

THIS amiable judge bore the same Christian name as his grandfather and father. The former was resident at Rumsey in Hampshire; and the latter a merchant in London, who became a director of the East India Company. He was the associate of literary men, and indulged himself in some very creditable translations of the classic poets. By his marriage with Frances daughter of Leonard Cropp of Southampton he had a numerous family. His third child was the future judge.

Giles Rooke was born on June 3, 1743; and being sent at an early age to Harrow, then under Dr. Thackery, arrived at the highest class in the school ere he was thirteen. Thence he proceeded to Oxford where he was matriculated at St. John's College in 1759. There he was an indefatigable student; and he used to relate his mortification at the only reward he received from the college tutor for the great pains he had bestowed on a copy of Latin verses, being the cold remark, "Sir, you have forgotten to put your tittles to your i's." Having taken his degrees of A.B. in 1763 and of A.M. in 1765, he was in 1766 elected to a fellowship of Merton College, which he held till his marriage in 1785; and in 1777 he was unsuccessful in a contest for the Vinerian Professorship of Common Law, his opponent Dr. Woodeson beating him only by five votes out of 457. Although intended for the legal, it was thought that he preferred the clerical, profession, from his devotion to the study of divinity. But his motive for pursuing the latter was to get rid of early prejudices and a tendency to scepticism, and to satisfy himself of the truths of Christianity. The effects of this study and conscientious application were evident in all his future life, producing that character for genuine piety by which he

was ever distinguished. The deep impression they made upon him is shown in a small pamphlet containing "Thoughts on the propriety of fixing Easter Term," which he published anonymously in 1792.

This did not prevent him from preparing for the profession he had chosen; and having been called to the bar he joined the western circuit, of which he eventually became the leader. His success in business warranted him in accepting the dignity of the coif in 1781; and he had the honour of being made King's Serjeant in April 1793. Soon after he succeeded in obtaining verdicts at the Exeter assizes against William Winterbotham for preaching two seditious sermons at Plymouth, which, as connected with the French Revolution, were considered especially dangerous, and for which the reverend defendant was sentenced to a large fine and a long imprisonment. At that troubled period it was Sir Giles's lot to be brought very prominently forward. Having been, on November 13 in the same year, appointed a judge of the Common Pleas in the place of Mr. Justice Wilson, and knighted, he delivered in his first circuit a charge to the grand jury at Reading on the excited state of the country; and in July 1795 he presided at York on the trial and conviction of Henry Redhead Yorke for a conspiracy with others to inflame the people against the government; for which a severe punishment was inflicted.[1]

Though not considered a deep lawyer, nor very highly reputed on the bench, he was a mild and merciful judge. A story is told of him that a poor girl, having from the pressure of extreme want committed a theft, was tried before him and reluctantly convicted; and that, while applauding the jury for giving the inevitable verdict, he declared that he so sympathised with them in their hesitation that he would sentence her to the smallest punishment allowed by the law.

[1] State Trials, xxii. 826, xxv. 1049; Gent. Mag. lxiv. 476.

He accordingly fined her one shilling, adding, "if she has not one in her possession, I will give her one for the purpose." Toward the end of his life he suffered much from illness, which was greatly aggravated by his grief for the death of his two elder sons. After nearly fifteen years of judicial labours, he died suddenly on March 7, 1808, in the sixty-fourth year of his life, during the whole of which he gained the respect of his contemporaries for his strict integrity, his amiable temper, and his love of literature.

His wife, Harriet Sophia, daughter of Colonel William Burrard of Walhampton, Hants, and sister of Admiral Sir Harry Burrard-Neale, Bart. survived him till the year 1839. She brought him a large family. One of their sons, the Rev. George Rooke, is vicar of Embleton in Northumberland, and has kindly furnished many of the foregoing particulars.

## SCOTT, JOHN, EARL OF ELDON.

CH. C. P. 1799. LORD CHANC. 1801, 1807.

*See* under the Reign of George IV.

## SEWELL, THOMAS.

M. R. 1764.

THE books of the Middle Temple record that Thomas Sewell, son and heir of Thomas Sewell of West Ham, Essex, Esq. deceased, was admitted to that society on June 6, 1729, and was called to the bar on May 24, 1734. It is told of him that in his youth he was "bred up under an attorney, and afterwards engaged in the laborious business of a draughtsman in Chancery," and that "he was called to the bar where he procured a considerable practice." The latter fact is confirmed by a letter from William Gerard Hamilton to Mr. Calcraft, stating that at the time Sir Thomas was made

master of the Rolls he was "in full business at the Chancery," making "between 3000*l.* and 4000*l.* per annum." In 1754 he was appointed one of the king's counsel.

He was a member of the two parliaments of 1754 and 1761, representing Harwich in the former, and Winchelsea in the latter. Though the parliamentary history does not report any of his speeches in either, a story is told that on the debate relative to the illegality of general warrants he spoke in favour of an adjournment of the debate, because it would afford him opportunity to examine his books and authorities, and he should be prepared to give an opinion on the subject, "which at present he was not." Appearing on the adjournment in his great wig, as his custom was, he said that "he had turned the matter over as he lay upon his pillow, and after ruminating and considering upon it a great deal, he could not help declaring that he was of the same opinion as before." On which Mr. Charles Townshend started up and said, "He was very sorry that what the learned gentleman had found in his night cap, he had lost in his periwig."

On the death of Sir Charles Clarke he was very unexpectedly offered the place of master of the Rolls, which he accepted on December 12, 1764, to the surprise of the bar, as his professional income greatly exceeded that attached to the office. He was thereupon knighted. He presided most efficiently in his court for twenty years; but in the latter part of his career he suffered much from those infirmities, the anticipation of which no doubt influenced his determination to quit the laborious duties of a leading barrister. His offers of resignation were ineffectual, the terms he required being too high to be granted. He therefore died "in harness," on March 6, 1784, and was buried in the Rolls' chapel.

He married twice. His first wife, who died in 1769, leaving three sons and as many daughters, was Catherine

daughter of Thomas Heath of Stansted Mountfichet in Essex, M.P. for Harwich. His second wife, whom he married in 1773, and by whom he had one child who died young, was Mary Elizabeth daughter of Dr. Coningsby Sibthorp of Canwick in Lincolnshire, professor of botany at Oxford. Of his three sons, one married into a noble family and succeeded to his father's estates at Chobham in Surrey; another was an officer in the army; and the third became rector of Byfleet. Of his three daughters, one was married to the unfortunate General Whitelocke; another to General Sir Thomas Brownrigg; and the third to Matthew Lewis Esq. deputy secretary of war, by whom she was the mother of Matthew Gregory (commonly called *Monk*) Lewis.[1]

## SKYNNER, JOHN.

CH. B. E. 1777.

LORD CHIEF BARON SKYNNER had not the advantage of a very opulent parentage, but owed his success in life to his own exertions. He was one of the sons of John and Elizabeth Skynner, living in the parish of Milton in Oxfordshire, on a property which the lady inherited; and was born about 1723. I have not found the date of his call to the bar, nor any incidents of his early career; but he must soon have acquired considerable practice and reputation in the courts, to enable him to obtain a seat in the parliaments of 1768 and 1774, as the representative of Woodstock. There, though not a frequent speaker, he showed his superior qualifications in several debates. In 1771 he was made King's Counsel, and attorney of the Duchy of Lancaster; and in the next year he was constituted second judge on the Chester circuit.

[1] Corr. of the Earl of Chatham; Gent. Mag. liv. 237, 257; Notes and Queries, First Series, viii. 388, 521, 621, ix. 86; Second Series, x. 396; Manning and Bray's Surrey, i. 498; iii. 196, 224.

On the resignation of Sir Sidney Stafford Smythe five years after, he was promoted on November 27th, 1777, to the head of the court of Exchequer, in which he presided with great learning and ability for nine years. His want of health obliged him to resign his seat in January, 1787, when he was honoured with a seat in the Privy Council.

The chief baron lived nearly nine years after his retirement, and died on November 26th, 1805, at Milton, where he was buried in the same vault with his wife, Martha, the daughter of Edward Burn and Martha Davie, who died eight years before him. They left a daughter, Frederica, who married Richard Ryder, brother of the first Earl of Harrowby, and afterwards Secretary of State. [1]

## SMYTHE, SIDNEY STAFFORD.

B. E. 1760. Com. G. S. 1770. Ch. B. E. 1772.

*See* under the Reign of George II.

In the reign of Queen Elizabeth, Thomas Smythe, commonly called Customer Smythe, from his being Farmer of the Customs, first settled himself at Westenhanger, in Kent. His eldest son, Sir John, was Lord Strangford's ancestor; and of his second son, Sir Thomas, to whom were devised the estates of Bounds near Tunbridge and Sutton at Hone, the chief baron Sir Sidney Stafford Smythe was the lineal representative. Sir Thomas's grandson, Robert, married Waller's Sacharissa, the daughter of Robert Earl of Leicester, and widow of Henry the first Earl of Sunderland; and their son, also Robert, was Governor of Dover Castle in the reign of Charles II. His son, Henry Smythe of Bounds, by his marriage with Elizabeth, daughter of Dr. John Lloyd, Canon of Windsor, was the father of the chief baron, an

[1] Collins' Peerage, v. 718; Gent. Mag. xc. p. i. 107; Parl. Hist. xvii. 303, 1294, 1296; Blackstone's Rep. 1178; 1 Term Rep. 551.

only child; and, dying in 1706, his widow made a second marriage with William Hunt, Esq.

Young Smythe was an infant at his father's death; and being destined for the law, was admitted to the Inner Temple in June 1724, and called to the bar in February 1728. He travelled the home circuit, and in 1740 was made steward and one of the Judges of the Palace Court at Westminster. In June 1747 he received the honour of a silk gown, and as a king's counsel he was engaged for the Crown in 1749 in the special commission in Sussex for the trial of a band of smugglers for the heinous murder of a tide-waiter and another man who was a witness in a transaction in which they were concerned. He was returned as member for East Grinstead to the parliament of 1747, and between its second and third sessions was promoted to the bench, succeeding Mr. Baron Charles Clarke in his seat in the Exchequer in June 1750, being soon after knighted.[1]

He sat as a puisne baron for more than two-and-twenty years, during which period he was twice appointed a Commissioner of the Great Seal. On the first occasion he held it for eight months, from November 9th, 1756, to June 30th, 1757, on the resignation of Lord Chancellor Hardwicke; and on the second, when he was principal Commissioner, for more than a year, from January 21, 1770, to January 28, 1771, upon the death of Lord Chancellor Charles Yorke. These appointments manifest that he held that high reputation as a judge that secured him an advance to the higher dignity of this court as soon as a vacancy occurred. This did not happen till the resignation of Sir Thomas Parker, who had filled the place of lord chief baron for upwards of thirty years. Sir Sidney succeeded him on October 28th, 1772, and presided in the Exchequer for the next five years. His infirmities then obliged him to resign in December,

[1] Gent. Mag. x. 623, xvii. 297, xx. 285, 526; State Trials, xviii. 1086.

1777, after a judicial life extending to a term nearly as long as that of his predecessor. He received a pension of 2400*l.* a year, and was immediately sworn of the Privy Council.

He died in less than a year afterwards, on October 30, 1778; leaving no issue by his wife, Sarah, the daughter of Sir Charles Farnaby, Bart., of Kippington in Kent.[1]

## SUTTON, THOMAS MANNERS, afterwards Lord Manners.

B. E. 1805.

Thomas Manners Sutton was the grandson of John Manners, third Duke of Rutland, his father Lord George being his grace's third son, who assumed the name of Sutton when he succeeded to the estate of his mother's father, Lord Lexington. Lord George by his first wife Diana, daughter of Thomas Chaplin of Blankney in Lincolnshire, Esq., had a family of seven sons and six daughters. The fourth of these sons became archbishop of Canterbury, and was the father of Charles Manners Sutton, who after presiding over the House of Commons from 1817 to 1834 was created Viscount Canterbury.

Lord George's fifth son, Thomas, the subject of the present sketch, was born on February 24, 1756. From the Charter House where he was first educated he went to Emmanuel College, Cambridge, and distinguished himself in that university by being placed as fifth wrangler in 1777. He had been admitted a member of Lincoln's Inn in November 1775, and was called to the bar by that Society in November 1780. Well read in the law, he obtained a considerable practice in the court of Chancery; and received the honour of a silk gown in 1800, being at the same time appointed solicitor-general to the Prince of Wales. In that character he brought before the parliament of 1802, to which

[1] Hasted's Kent, iii. 58, 287, v. 274; Blackstone's Rep. 858, 1178.

he was returned member for the family borough of Newark, the claims of his royal highness to the revenue of the Duchy of Cornwall, and urged them with so much grace and talent that he not only excited the eulogy of both Mr. Pitt and Mr. Fox, but was promoted by Mr. Addington, then prime minister, in the following May to the office of solicitor-general to the king, being knighted on the occasion. He executed the duty which soon after devolved upon him of replying to the evidence brought forward by Colonel Despard on a charge of high treason, with great temperance and ability. He assisted also in the trial of M. Peltier for a libel on Napoleon Bonaparte during the short peace with France, the speedy conclusion of which saved the defendant from being called up for judgment.[1] On the resignation of Mr. Baron Hotham, Sir Thomas was appointed to fill the vacant seat in the Exchequer on February 4, 1805, when he resigned the recordership of Grantham which he had held for some years.

He only sat as an English judge for two years, when on the dissolution of the short-lived ministry of "All the Talents," he was selected to supersede Mr. Ponsonby as lord chancellor of Ireland in April 1807, having been on the 20th of that month called up to the House of Peers by the title of Baron Manners of Foston in Lincolnshire. He presided in the Chancery of that kingdom during the remainder of the reign of George III. and until the eighth year of George IV.; when in November 1827, being then in his seventy-second year, he resigned the Seal to Sir Anthony Hart, having for more than twenty years exercised the important functions of his high office with universal approbation. His decisions as an equity judge were held in high estimation; and so little jealousy had he of criticism

[1] Parl. Hist. xxxvi. 322, 406, 1202; State Trials, xxviii. 469, 530.

that he refused an application for an attachment against an attorney for publishing some proceedings in his court, expressing his opinion that the publicity given to law proceedings not only prevented unjust sentences, but answered many other salutary purposes. His urbanity ensured him popularity, and his firmness commanded respect. He had a strong antipathy to all attempts at Catholic emancipation. Lady Morgan (Memoirs, ii. 495) relates that he had given to that lively writer her first lesson in salad-making: but when he discovered the emancipating tendency of her novel of "O'Donnell," he ordered the book to be burned in his servants' hall, and vented his spleen by saying to his wife, "I wish I had not given her the secret of my salad."

He lived nearly fifteen years after his retirement, and occasionally joined in the debates in the House of Peers. At the age of eighty-six he died at his house in Brook Street on May 31, 1842. By his first wife Anne, the daughter of Sir John Copley, Bart., of Sprotborough, he left no issue; but by his second wife Jane, daughter of Lord Caher and sister of the Earl of Glengall, he left an only son, the present peer.

## THOMSON, ALEXANDER.

B. E. 1787. Ch. B. E. 1814.

Chief Baron Sir Alexander Thomson was born in 1744; but of his early history, or in what inn of court he took his degree of a barrister, I have not been fortunate enough to obtain any particulars. Practising in the courts of equity, he was promoted on May 11, 1782, to a mastership in Chancery, and continued to act in that character for nearly four years, when on January 4, 1786, he succeeded Mr. Anguish as accountant-general of that court. In another year he was raised to the bench, being sworn a baron of the

Exchequer on February 9, 1787, and knighted. After remaining in that seat for twenty-seven years under Chief Barons Sir James Eyre, Sir Archibald Macdonald, and Sir Vicary Gibbs, on the elevation of the latter to the presidency of the court of Common Pleas, he was appointed the head of the Exchequer in Hilary Vacation 1814, a position which he fully merited by his legal knowledge and the excellence of his judicial decisions. He presided in the court for little more than three years; and died at Bath at the age of seventy-three on April 15, 1817, being then by many years the father of the bench.

His reputation as a lawyer and as a judge was of the highest order, his acquirements in scholastic literature were very great, and his disposition as a man was eminently social and kind. To his deep learning and comprehensive understanding was united a great love of jocularity. On being asked how the business proceeded in his court, when sitting between Chief Baron Macdonald and Baron Graham, he is reported as saying, "What between snuff-box on one side and chatter-box on the other, we get on pretty well." He was very fond of port wine, and some one on the circuit, by way of a complimentary palliation, said to him, "I always think, my lord, that after a good dinner a *certain* quantity of wine does a man no harm." "Oh! no," replied the chief, "it is the *uncertain* quantity that does the mischief." The jokers of Westminster Hall nicknamed him "The Stay-maker," from a habit he had of checking witnesses who were going too fast.[1]

## THURLOW, EDWARD, LORD THURLOW.

LORD CHANC. 1778, 1783.

LORD CHANCELLOR THURLOW has been as much praised and as much abused as any man who ever held the Great

[1] 1 Term Rep. 551; 5 Taunton, 415; 1 Moore, 98.

Seal; and for his different qualities equally deserved both the approbation and censure he received. To a coarseness, partly natural and partly assumed, to a presumptuous haughtiness of demeanour, to a pretended disregard for the opinion of mankind, and to gross looseness of morals, were added undoubted talents, courage under difficulties, love of literature, and natural goodnature. With an affected singularity he refused to enlighten an inquirer, who asked him whether he was connected with the family of Secretary Thurloe, by saying that he could claim no relationship with Thurloe the statesman, being only descended from Thurlow the carrier In Suckling's "History of Suffolk" (II. 33) however the family is traced as possessing an estate at Burnham Ulph in Norfolk, from the reign of Henry VIII., which was sold just before the chancellor's birth. His father was the Rev. Thomas Thurlow, rector of Ashfield in Suffolk, and afterwards of Stratton St. Mary's in Norfolk. His mother was Elizabeth, daughter of Robert Smith, Esq., of the former place; and he was the eldest of three sons. The second son was successively advanced in the Church during his brother's chancellorship to the deanery of Rochester, and the bishoprics of Lincoln and Durham. The third son was a merchant at Norwich, of which city he eventually became an alderman and mayor.

Edward Thurlow was born at Ashfield about 1732. From his early childhood he showed a contumacious spirit and an overbearing disposition, which he displayed not only at home, at Scarning school, and at the King's School at Canterbury, but also at Caius College, Cambridge; and numerous stories are told of his insolence and insubordination. But there was always some humour mixed with his escapades; and amidst his irregularities he did not neglect his studies, but succeeded in laying up no inconsiderable store of classical learning. His career at Cambridge began in October 1748

and was terminated in 1751 by what was not far short of expulsion; for having been punished for one of his breaches of discipline by an imposition to translate a paper of the "Spectator" into Greek, instead of taking it up as was his duty, to the dean who inflicted the penalty, he left it with the tutor; and on being called before the authorities of the college to explain his conduct, he made the matter worse by coolly saying that he had done so from no motive of disrespect to the dean, but simply from a compassionate wish not to puzzle him. Rustication being too small, and expulsion too great a retribution for this insult, Thurlow was recommended to withdraw his name from the books, a hint which he was obliged to take. Before this dean, who is an elective and temporary officer of the college, he had been frequently summoned to appear for various offences, and having answered on one occasion with some disrespect, was sharply asked "whether he knew that he was talking to the dean." Thurlow of course answered, "Yes, Mr. Dean," and ever after when they met, addressed him as "Mr. Dean," and so frequently reiterated the title, that the dean felt himself insulted by the banter. If this story be true, there is a graceful pendant to it, for on the impudent youth becoming chancellor he sent for his old enemy and on his entering the room addressed him as usual. "How d'ye do, Mr. Dean?" "My lord" replied the other sullenly, "I am not now a dean, and do not deserve the title." "But you are a dean," said his lordship giving him a paper of nomination, "and so convinced am I that you will do honour to the appointment, that I am sorry any part of my conduct should have given offence to so good a man."[1]

It has been said that Thurlow was at first articled to an attorney; but there is no other authority for this statement

[1] Law and Lawyers, i. 94; Notes and Queries, Second Series, iii. 283; Public Characters (1798).

than that he attended for some time the office of Mr. Chapman a solicitor, with William Cowper the poet. This was a practice then, and it is now frequently adopted by young students for the bar, to give them an insight into the practical working of the profession. Soon after, or perhaps before, he left the University he was entered at the Inner Temple, the date being doubtful whether in January 1751 or 1752. Though he had the character of being an idle and dissipated man during his novitiate, it is abundantly clear that he employed a sufficient portion of his time in laying a solid foundation for those legal acquirements of which his subsequent career proved him to be master. Outwardly he might "giggle and make others giggle" at Mr. Chapman's, and frequent coffee houses, as was then the fashion, and be boisterous over his wine, as was his nature; yet when at his chambers in the Temple he was always found engaged over his books.

He was called to the bar in November 1754, and for some time was straitened for the means of living, which his father was little able to supply: and a story is told, not very creditable to his honesty, by which he fraudulently obtained the use of a horse to travel the circuit without paying or intending to pay the dealer. It is to be hoped that this is an illnatured invention of his enemies. He went the home circuit, and in a letter dated in Fig Tree Court in April 1758 he gives a very clear account of the trial at Kingston relative to a right of way through Richmond Park, and the independent conduct of Mr. Justice Foster on the occasion.[1] He obtained great credit in one of the earliest causes in which he happened to be engaged, Luke Robinson *v.* the Earl of Winchelsea, for the courage with which he resented the accustomed rudeness and arrogance of

[1] Life of Sir Michael Foster, 85.

Sir Fletcher Norton, the opposing counsel. As Sir Fletcher was hated by the profession this castigation made Thurlow popular among the attorneys, and procured him some briefs. His business however was still so small in amount that he excited considerable surprise by accepting a silk gown in Hilary Term 1762, when he had been little more than seven years at the bar. The occasion of his promotion is variously stated. The story that he owed it to his great speech in the Douglas cause is refuted by the fact that that speech was not delivered till seven or eight years after he was made a king's counsel. Equally unsatisfactory is the narrative that being accustomed to frequent Nando's coffee house in Fleet Street, the usual resort of lawyers, and the Douglas cause being then the universal topic of conversation, he showed so much cleverness in discussing it, and so much insight into its intricate details, that one of the counsel engaged in the case happening to be present, strongly recommended that he should be employed in sifting and arranging the documentary and other evidence necessary to be produced; and that in the course of the investigation he became acquainted with and acquired the confidence of several persons of rank and influence who participated in the general interest excited by the question. These persons were of course principally Scotch; among whom was the Duchess of Queensbury whose influence with Lord Bute the prime minister is stated to have procured for him his advance. This is rendered improbable by the fact that the great litigation in the Scotch courts did not commence till December 1762; and is only possible on the supposition that he was so employed between the death of the Duke of Douglas in December 1761, and Hilary Term 1762 to get up the evidence in England; which seems very unlikely. A third statement is that he owed his promotion to his writing "A Refutation" of an attack upon Brigadier-General Townshend

(afterwards Marquis Townshend) published in 1760.[1] This however seems scarcely sufficient to account for Thurlow's elevation, though it may perhaps have been a reason for his being elected in 1768 for Lord Townshend's borough of Tamworth. The most natural inducement operating upon Thurlow to seek and to accept a promotion accompanied with so much risk, was that confidence he had in his own powers, which future events proved was not misplaced. He was at the same time elected a bencher of his inn of court.

In proceeding on his ambitious career he took his seat in parliament for Tamworth at the general election of 1768, during the sittings of which he was obliged to undergo two re-elections, one in March 1770 when he was made solicitor-general on the accession of Lord North's ministry, and the other in January 1771, when he succeeded Sir William De Grey as attorney-general. He represented the same place in the parliament of 1774, till he was raised to the peerage. During the whole time he was in the House of Commons he gave an unflinching support to the ministry, and by the boldness of his assertions and the audacity of his language, more than by the force of his reasoning, he was considered Lord North's ablest coadjutor. On the questions relative to the administration of criminal justice and the law of libel, which then agitated the public mind, he was a strenuous advocate for leaving things as they were, and treated contemptuously those by whom alterations were pressed: and in all the debates relative to America he asserted the right of England to tax it, and stigmatised those who resisted as traitors and rebels.

In his official capacity as solicitor-general he assisted in the conduct of the several prosecutions of John Almon, H. S. Woodfall, and John Miller for publishing Junius's

[1] Notes and Queries, Third Series, iii. 122.

letter to the king; and as attorney-general he prosecuted John Horne Tooke for a seditious libel. In all of these he appears to have confined himself strictly to his duty as advocate for the crown, and to have argued the cases according to the interpretation of the law as it then existed; though in the last he had to submit to the pertinacious vituperation of the defendant. He also conducted the extraordinary prosecution of the Duchess of Kingston for bigamy, which excited so much public attention.

On Lord Bathurst's resignation in 1778, Lord North, though little able to spare Thurlow from the House of Commons, where he was one of the most efficient supporters of the administration, did not hesitate to reward his services by recommending his promotion. He was accordingly appointed lord chancellor on June 3, being at the same time ennobled by the title of Baron Thurlow of Ashfield in Suffolk. He lived at that time in Great Ormond Street. He held the Seal for twelve years, except a short interval of seven months during which it was put into commission.

He maintained in the House of Lords the same energy, not to say effrontery, which he had exhibited in the House of Commons. He perpetually was rising in his place, speaking on every subject, and treating the arguments of the other peers with coarse sarcasm and indignity, as if he were the schoolmaster of a set of boys, instead of the speaker of an august assembly. By this course he not only was considered a bore by all his brother peers, but excited the indignation of those who were the objects of his attacks. All inclination, however, to call his conduct in question was subdued within a year after his entrance into the house by an incident which is related by Mr. Butler in his Reminiscences, though no notice is taken of it in the Parliamentary History. The Duke of Grafton, stung by something he had said, most unadvisedly reproached him for his plebeian extraction and his

recent admission into the peerage. "His lordship," says Mr. Butler, "rose from the woolsack, and advanced slowly to the place from which the chancellor generally addresses the house; then fixing on the duke a look of lowering indignation, 'I am amazed,' he said in a level tone of voice, 'at the attack which the noble duke has made upon me. Yes, my lords,' considerably raising his voice, 'I am amazed at his grace's speech. The noble duke cannot look before him, behind him, or on either side of him, without seeing some noble peer who owes his seat in this house to his successful exertions in the profession to which I belong. Does he not feel that it is as honourable to owe it to these as to being the accident of an accident? To all these noble lords the language of the noble duke is as applicable and as insulting as it is to myself. But I don't fear to stand single and alone. No one venerates the peerage more than I do,—but, my lords, I must say that the peerage solicited me,—not I the peerage. Nay more—I can say, and will say, that, as a peer of parliament,—as speaker of this right honourable house,—as keeper of the Great Seal,—as guardian of his majesty's conscience,—as lord high chancellor of England,—nay even in that character alone, in which the noble duke would think it an affront to be considered,—but which character none can deny me—as a MAN,—I am at this moment as respectable,—I beg leave to add,—I am at this time as much respected, as the proudest peer I now look down upon.' The effect of this speech," Mr. Butler adds, "both within the walls of parliament and out of them, was prodigious. It gave Lord Thurlow an ascendency in the house which no chancellor had ever possessed: it invested him in public opinion with a character of independency and honour."

Having thus silenced his opponents, the frequency of his own speeches was not diminished, though perhaps they were more cautious and less vituperative. During the remainder

of Lord North's ministry he was a hearty and effective justifier of all his measures, and when at last the administration was driven from the field in March 1782 it was expected that he would retire with his colleagues. But to the surprise of every one he still kept the Seal. The king, in whose presence alone he dropped his bearish demeanour, forbad the mention of any other chancellor. The consequence of submitting to such an intrusion among men who and whose opinions had been the perpetual subject of his abuse was soon felt. Before the session was concluded in which the new ministers had taken office Lord Thurlow had openly but ineffectually opposed two measures introduced by them. Towards the close of that session the Marquis of Rockingham died, and notwithstanding the division between the surviving members of the administration Lord Thurlow still retained the Seal under Lord Shelburne, till that nobleman was expelled by the Coalition ministry, when it was placed in the hands of three commissioners on April 9, 1783. In less than nine months that administration was excluded in its turn, and that ministry was commenced under Mr. Pitt which defied all opposition for nearly eighteen years. Lord Thurlow, who claimed the title, and was generally looked upon as the king's friend, and who had been all along the private adviser of his majesty and the chief instigator of the successful opposition to Fox's India Bill in the House of Lords, of course resumed his place, and continued to preside for the second time in Chancery for more than nine years, from December 23, 1783, to June 15, 1792. The ascendency which Mr. Pitt obtained and preserved in the royal counsels during the whole of this time excited the jealousy of the chancellor, who, conceiving that he had a stronger hold on the king's confidence and regard, made various attempts, at first guardedly, but at last openly, to destroy the influence of the premier. Mr. Pitt, who was well aware that Lord

Thurlow, during the agitation of the regency question on the insanity of the king in 1788, had been privately negotiating with the prince's friends, soon felt that he had not only a lukewarm, intractable, and inefficient, but a treacherous counsellor in his cabinet; but for a time submitted to the infliction rather than distress the king by an exposure. George III. and the public in general, who were ignorant of Thurlow's private dealings with the opposition, believed in the solemn professions of affection and gratitude that he made as soon as the king's recovery put an end to the hopes of the Whigs. But on his attempting the same course he had pursued towards the Rockingham administration by openly opposing some measures of the government, and charging them with attacking the prerogative, Mr. Pitt found it absolutely necessary to bring the question to an issue. He therefore represented to the king that it was impossible that he could conduct the affairs of the kingdom if Lord Thurlow continued chancellor. George III., who probably had gained an insight into the true state of affairs, at once sacrificed the chancellor, and removed him from his office on June 15, 1792. As a mark of royal favour however Lord Thurlow, having no children, received a new patent of peerage, with a remainder to his brothers and their male issue. This dismissal excited the indignation of the excluded lord, but no complaints or regrets in any other quarter. The Whigs were especially aware of his hypocrisy, and Burke, a few days after one of Lord Thurlow's lacrymose effusions of affection for the king, declared that "the iron tears which flowed down Pluto's cheeks rather resembled the dismal bubbling of the Styx, than the gentle murmuring streams of Aganippe."

Lord Thurlow lived fourteen years after his retirement from office, but never gained his former ascendency. The inconsistency of his political conduct prevented his being

received into intimate relations with Whig or Tory, or rather with Foxites or Pittites; and though he occasionally spoke in the House of Lords, and at one time sided with the Opposition, he at length fell into the class of those who are called independent members. He was a great sufferer from the gout, and as his age advanced his increasing infirmities obliged him frequently to betake himself to the Bath waters. He died at Brighton on September 12, 1806, and was buried at the Temple Church in London.

With great natural abilities, with a considerable knowledge of law, and with undoubted rhetorical powers, he could scarcely be considered in any other light than as a political chancellor; and having failed in that character, his reputation as a judge does not at the present day stand very high. Though some of his judgments exhibit great learning and research, their excellence was attributed to the care and erudition of that eminent lawyer Mr. Hargrave, whose able assistance the chancellor notoriously used. The roughness with which he treated those who practised in his court tended no doubt to deprive him of such credit as he deserved; for it cannot be supposed that a private prompter could always be at hand to advise him in the daily calls for his decisions. Mr. Butler, a great contemporary authority, speaks of his decrees as "strongly marked by depth of legal knowledge and force of expression, and by the overwhelming power with which he propounded the results;" but he adds that "they were often involved in obscurity, and sometimes reason was rather silenced than convinced." This last characteristic may be also given of his orations in parliament. The effect of his speeches was greatly enhanced by this authoritative bearing and the terrors of his countenance, which by its dark complexion, its stern and rugged features, and his bushy eyebrows, made him, as Mr. Fox said, "look wiser than any man ever was."

That the retention of power and the acquisition of wealth influenced him on two occasions to desert his party, will ever be a blot on his character. On the other hand, though not affecting to be a good churchman, the disposition of his clerical patronage has not been complained of; and there are many instances of his encouragement of the men of art and literature of the time, and of his great liberality towards them in his peculiar rough way. Among those who enjoyed his patronage were Shepherd, Potter, Horsley and Johnson, Hayley, Romney and Crabbe. The affection with which the amiable poet Cowper regarded him goes far to prove that he was not so great a bear as he tried to make the world believe; and many anecdotes told of him show the natural kindness of his heart.

He was never married; but had three illegitimate daughters, whom he carefully nurtured and handsomely provided for. His title, under his second patent, devolved on his nephew, the son of the bishop of Durham, who with his own poems published some translations from Homer and other classics into verse, by which the chancellor had amused his retirement.[1]

WALSINGHAM, Lord. *See* W. de Grey.

## WEDDERBURN, ALEXANDER, Lord Loughborough, *afterwards* Earl of Rosslyn.

Ch. C. P. 1780. Com. G. S. 1783. Lord Chanc. 1793.

Lord Loughborough is another example of a political chancellor, who, although he was gifted with great talents and possessed many accomplishments and undoubted eloquence, failed to gain the respect of either party in the state,

[1] Lives, by Roscoe (1830), Burke, in Welsby's Coll. (1846), Lord Campbell (1846).

because he was "everything by turns," and his own interests and advancement seemed to prompt his various tergiversations. According to the common custom when a peerage is conferred, the descent of Alexander Wedderburn is traced from a family that held lands in the county of Berwick at the time of the Conquest. Among his ancestors the "belted knight" Walter de Wedderburn is named in the reign of Edward I. Then follow a succession of individuals noticed in various ways in Scottish history, till we arrive at Alexander, who accompanied King James VI. on his journey from Scotland to assume the English crown. The grandson of this Alexander was Sir Peter, Lord of Gosford, an eminent lawyer and one of the lords of council and session; who was the grandfather of Peter, Lord Chesterhall, equally eminent in the law, and advanced by that title in 1755 to be one of the senators of the college of justice. Lord Chesterhall married Janet, the daughter of Colonel Ogilvie, and had by her two sons, Alexander, the future chancellor, and Colonel David, who was killed in India; and one daughter, Janet, who married Sir Henry Erskine of Alon, Baronet.

Alexander Wedderburn was born at Edinburgh on February 13, 1733, and commenced his education at a school at Dalkeith, finishing it at the university of Edinburgh, through which he passed with great distinction. With such progenitors he naturally selected the law as his profession, and applied himself so successfully to the study of civil law and municipal jurisprudence, that he was admitted a member of the faculty of advocates in June 1754, being then only twenty-one. Before he took this step he had shown a strong inclination to the English bar by entering himself at the Inner Temple on May 8, 1753, and keeping his terms there. He was, however, persuaded to try his fortune at the Scottish bar, as his father's present position at it, and still more his elevation in 1755 to the Scottish bench, seemed to promise

prosperous results. The early death of the new lord in the next year would have dissipated those hopes, had not the young man attained a certain eminence among his colleagues by his association with the literati of his country, and by his connection with the general assembly of the Church of Scotland. He had been long on intimate terms with Robertson, Adam Smith, and particularly with David Hume, whom he had lately successfully defended against an attack upon him in the general assembly. In that arena, too, he soon after strenuously opposed a censure upon Home for his tragedy of "Douglas," and upon all persons, lay and clerical, who attended the theatre. He had been a prominent member of the Poker club, and of its successor the Select Society, formed for the discussion of questions of history, law, and ethics. In that society he had the honour of presiding on its first meeting in May 1754, numbering among his associates, besides the four eminent men just named, Hugh Blair, Sir David Dalrymple, Drs. Alexander Munro and John Hope, and other persons famous in the law and the church. He had taken a leading part in projecting the first "Edinburgh Review," to which he was during its short existence both editor and contributor. With the prestige arising from all these causes, Wedderburn still continued at the Scottish bar, till about a year after his father's death, when his connection with it was wholly terminated by an incident in the court, originating in a premeditated insult to Mr. Lockhart, then the dean of faculty, or chief of the advocates.

Lockhart was so notorious for treating the junior advocates with rudeness and insult, that four of them agreed together that the first who was the subject of his vituperation should publicly resent it. The chance fell upon Wedderburn, whom in an argument he called a "presumptuous boy;" and Wedderburn in his reply was not wanting in the attack that had

been planned. Among other passages he said, "I do not say that the learned dean is capable of *reasoning*, but if *tears* would have answered his purpose, I am sure tears would not have been wanting." On Lockhart's look of vengeance, he unwarrantably added, "I care little, my lords, for what may be said or done by a man who has been disgraced in his person and dishonoured in his bed;" alluding to some circumstances in the dean's private life. The lord president very properly stopped him, and said that "this was language unbecoming an advocate and a gentleman;" on which the irate junior exclaimed that "his lordship had said that as a judge which he could not justify as a gentleman." The indignant court at once called upon him to retract and apologise, on pain of deprivation; when Wedderburn deliberately took off his gown, and laying it on the bar, said, "My lords, I neither retract nor apologise, but I will save you the trouble of deprivation; there is my gown, and I will never wear it more:—virtute me involvo." Then bowing to the judges, he quitted the court.

Whether Wedderburn, aware that he had kept nearly all his terms at the Inner Temple, and determined to take his chance in Westminster Hall, had contrived this scene to give greater éclat to his departure, remains a matter of speculation. He immediately left Scotland, to which he never returned; and was called to the English bar four months afterwards, on November 25, 1757. During the first months after his arrival in London, he applied himself, under the instruction of the elder Sheridan and Macklin, to the study of English pronunciation with such effect, that the peculiarities of the Scottish accent were almost entirely eradicated, and he was able to exhibit his acknowledged powers of oratory without risk of ridicule. To his association with these two masters of elocution is to be attributed his love for the drama, which he indulged throughout his life. As a

perfect stranger in England he was not likely to have an early opportunity of distinguishing himself, and the little business he obtained was through his theatrical connections and his Scotch friends. Among the latter was the Earl of Bute, who had belonged to the "Select Society" in Edinburgh; and under his patronage he became member of the burghs of Ayr, &c., in the first parliament of George III. In allusion to his histrionic alliances, Churchill thus introduced him into the Rosciad, as counsel for Murphy the dramatist.

> "To mischief train'd, e'en from his mother's womb,
> Grown old in fraud, though yet in manhood's bloom,
> Adopting arts by which gay villains rise,
> And reach the heights which honest men despise,
> Mute at the bar, and in the senate loud,
> Dull 'mong the dullest, proudest of the proud,
> A pert prim prater of the Northern race,
> Guilt in his heart, and famine in his face,
> Stood forth; and thrice he wav'd his lily hand,
> And thrice he twirl'd his tye—thrice strok'd his band—
> 'At friendship's call' (thus oft, with traitorous aim,
> Men void of faith usurp faith's sacred name),
> 'At friendship's call I come, by Murphy sent,
> Who thus by me develops his intent.'"

This severe passage was not inserted in either of the first three editions of the satire which all appeared in 1761. As he did not become a member of parliament till November of that year he could not then have been "in the senate loud." They were first inserted in the collection of the author's poems published in 1763; showing that even at that early period those unfortunate characteristics were visible, which were attributed to him throughout his career.

Becoming a member of a club of literary natives of Scotland which met at the British coffee-house in Cockspur Street, to which many Englishmen were soon admitted, his success was gradually forwarded by the influence of his

associates. But still his business was so small that lawyers were astonished at his boldness in accepting a silk gown soon after his patron Lord Bute became prime minister. He received a patent of precedence in Hilary Term 1763. Never having joined a circuit he now selected the northern, from which its leader Sir Fletcher Norton had just retired. But it being contrary to professional etiquette for any barrister to enter a circuit except as a junior, the regular attendants of it came to a resolution that none of them would hold a brief with him, to which they were prompted the more from his having managed to induce Sir Fletcher's clerk, who knew all the attorneys in the north, to accompany him. He was however saved from the consequences of this unhandsome attempt to secure leading employment, by the dissent of one counsel only, who agreed to take junior briefs under him. This was Mr. Wallace, who, no doubt, prophesying the delinquent's future advance, risked the present displeasure of his colleagues. Nor was he mistaken in his expectations, for following in Wedderburn's tail he received his ultimate reward by being appointed solicitor-general on his leader's nomination to the attorney-generalship. In London Mr. Wedderburn attached himself to the Court of Chancery, where, and in the House of Lords upon Scotch appeals, he achieved great success. He was remarkable for the clearness of his statements and for the subtilty of his arguments; and he particularly shone in the great Douglas cause, his speech in which was universally admired.

In the House of Commons, to which he was returned to the new parliament of 1768 as member for Richmond, he displayed similar efficiency. After Lord Bute's retirement, Wedderburn from being one of the "king's friends" assumed the character of a "patriot," strenuously defending Wilkes, and taking the part of the Americans. For his conduct with regard to the former he felt himself in March

1769 obliged to vacate his seat for Richmond, which had been given to him as a Tory; but was returned as a Whig in the following January for Bishop's Castle in Shropshire. This seat he owed to the gratitude of Lord Clive for his eloquent and earnest defence of him; which his lordship further exhibited by a munificent present of a mansion at Mitcham. His secession from the court party was hailed by the oppositionists with a complimentary dinner; and his subsequent efforts on that side were rewarded by the freedom of the city of London and the plaudits of Lord Chatham. Wedderburn continued his patriotic exhibitions during the first year of Lord North's ministry, personally pitting himself against that nobleman, and exposing with great eloquence and power all his measures. Towards the end however of that year he was evidently laying himself out for a junction with the minister, and to the infinite disgust of all, but to the surprise of few, on the meeting of parliament on January 25, 1771, he was gazetted as solicitor-general; bound to support all he had so recently and earnestly resisted. Well might Junius say of him, "As for Wedderburn, there is something about him which even treachery cannot trust." Yet, notwithstanding this decided opinion and various similar expressions by this extraordinary writer with regard to Wedderburn, there were some who attributed to him the authorship of Junius's Letters; a notion which could have no foundation except in the elegance and force of his style, and which no one who investigates the subject can possibly support. Braving the sneers of the opposition bench, he soon by his admirable tact and insinuating eloquence recovered his ascendency in the House.

In 1774 he pronounced the tremendous invective against Franklin before the privy council, which increased the exasperation of the Americans, and assisted in stirring up the

civil war; in the progress of which he gave the most unflinching support to the ministers, with undaunted front defending them from the attacks of the opposition. Upon that speech and its consequences the following lines were produced:

> "Sarcastic Sawney, full of spite and hate,
> On modest Franklin pour'd his venal prate;
> The calm philosopher, without reply
> Withdrew—and gave his country liberty."[1]

But he could not yet make himself happy in his position. He fancied that his services were insufficiently appreciated, and that he was neglected by Lord North: yet when he was offered the chief barony of the Exchequer at the end of 1777, he refused it unless it was accompanied by "a place in the legislature;" and talked of taking an "opportunity of extricating" himself from office. As ministers had some experience of his dexterity in shifting the scene, means were taken to quiet his impatience; and in the following June he succeeded Thurlow as attorney-general. He occupied this post for just two years, and on June 14, 1780, his longing for promotion and peerage was gratified by the appointment of chief justice of the Common Pleas and by being created Baron Loughborough.

At the time of his elevation he was member for Bishop's Castle. In the new parliament of 1774 he had been elected both for Castle Rising and Oakhampton. Selecting the latter he vacated his seat on being appointed attorney-general, and was re-elected by his old constituents of Bishop's Castle. During the whole period of his holding office he had been a most zealous and effective supporter of the ministerial measures, charming the house by his sarcasm and his wit, as well as leading it by the force and eloquence of

[1] Notes and Queries, First Series, v. 58.

his advocacy. Professionally he continued to distinguish himself by his industry and management. His speech on the prosecution of the Duchess of Kingston is an admired specimen of his forensic excellence, remarkable for clear and close argument and lucid arrangement. In his last act as attorney-general he has the credit of being the first to put an effectual stop to the No Popery riots, by the advice he gave to the privy council that the military might act without regard to the riot act.

His first public appearance after his appointment was to preside in the next month at the trials of the rioters; when his charge to the grand jury, while it displayed his usual eloquence, is blamed as being more like the inflammatory address of an advocate than the calm direction of a judge. During the twelve years that he held the office, he preserved its dignity and acquired a well-deserved reputation for his impartial administration of justice, as well as for his patience and courtesy to those who practised under or came before him. But he had not much credit as a lawyer, and his decisions are not greatly regarded. Not content with the arena of Westminster Hall and the circuits, he acted as chairman of the quarter sessions in Yorkshire, where he had property; and it is said that the court of King's Bench maliciously rejoiced when it had occasion to overturn his decisions.

But his aspirations had a higher aim than the presidency of his court. He looked with longing to the chancellor's seat, but despaired of it while Lord Thurlow was patronised by the king. Though he supported Lord North during the tottering remainder of his ministry, it was principally by his silent vote; and when Lord Rockingham came in he could not be expect to be advanced. But under Lord Shelburne's administration he renewed his intrigues, and when by the aid of his exertions in parliament that ministry was forced to

resign, he hoped that the coalition which followed, and which he had the credit of advising, would give him his expected reward. He was, however, disappointed; the Seal was put in commission, and he was obliged to content himself with being the first commissioner; a post which he filled during the short existence of that unpopular administration, from April 9 to December 13, 1783. When the coalitionists were indignantly dismissed, Lord Loughborough exerted himself strenuously in aid of the factious proceedings in the lower house; till by the dissolution of the parliament, Mr. Pitt was firmly established as prime minister. He had now become a Whig and a Foxite; and was considered the leader of the party in the House of Lords. For the next five years nothing occurred to give him hopes of a chance; but with the illness of the king in 1788 his prospects brightened in the view of the regency. His first most unwise and unconstitutional advice to the Prince of Wales was that the government should at once be assumed by him as of right; but his royal highness was most fortunately influenced by more moderate counsels, and the bill was allowed to proceed, Lord Loughborough and his party vainly endeavouring to mitigate its more objectionable restrictions. On the discovery of Lord Thurlow's double-dealing the transfer of the Great Seal seemed secure, when the king's sudden recovery reduced the Whigs and their politic adherent to their former unpromising position. Lord Loughborough continued from this time to act steadily with the Whig party, and even so late as February 1792 supported Lord Porchester's motion censuring Mr. Pitt and his colleagues for their conduct with regard to Russia.[1] On Lord Thurlow's dismissal from his office in the following June, and the Seal being put again in commission, his lordship's hopes began to revive, and advantage being taken of a breach in the Whig ranks, in consequence of Mr.

[1] Parl. Hist. xxvii. 896.

Fox's opinions and conduct in reference to the French Revolution, negotiations were opened by the ministers which resulted in his joining the seceders and accepting the bauble he had so long ardently desired. He became lord chancellor on January 28, 1793, and kept his seat till April 14, 1801, a month after the termination of Mr. Pitt's first administration.

He was now once more called upon necessarily to advocate many measures which he had before opposed; but, being joined by some others of the alarmist party, he boldly performed the task, notwithstanding the vituperation of the Foxites. He stimulated the national excitement caused by the affairs in France, supported, if he did not originate, the stringent laws that were enacted, and advised those prosecutions for constructive treason against Hardy, Horne Tooke, and others, which were so ignominiously defeated. During the eight years of his chancellorship he kept outwardly on good terms with Mr. Pitt; but towards the end of them he privately intrigued for that minister's dismissal. Although he had formerly professed himself a warm friend to Catholic Emancipation, he now secretly and artfully encouraged the scruples which the king entertained with regard to the coronation oath; hoping that he should thus certainly secure himself in the possession of his office in the event of a change. The change took place; but to Lord Loughborough's infinite chagrin and disappointment he was himself superseded. The king was too well aware of his previous intrigues to have any confidence in him, and was glad to have the opportunity of availing himself of the services of Lord Eldon, as an adviser whom he esteemed to be both zealous and honest.

The tenacity to office of the discarded chancellor was indecently exhibited after his dismissal by his attending unsummoned the meetings of the cabinet; until Mr.

Addington was obliged to give him a formal notice that his presence was not required. His hope of restoration appeared from his constant presence at court, from his taking a house in the neighbourhood of Windsor in order to enjoy frequent access to his majesty, and also from following the royal movements to Weymouth. But it all availed him nothing; the king, though courteous and kind to his fallen minister, never really respected him; and when after four years of these fruitless attempts, death terminated his career, the king's real opinion of him is said to have been expressed by the royal exclamation, "Then he has not left a greater knave behind him in my dominions." Lord Loughborough was the first chancellor who benefited by the act passed in 1799, by which that officer became entitled to an annuity of 4000*l*. His lordship was also solaced by an advance in the peerage, being created Earl of Rosslyn, with a special remainder to the heirs male of his sister, the widow of Sir Henry Erskine; in whose favour he had already received in 1795 a new patent of the barony of Loughborough.

Whatever opinions may be formed of his political conduct, his judicial career was free from objection. Though not regarded as very deep or learned in his profession, nor having the credit of introducing any improvements in the practice of the court, he had considerable reputation as an equity judge. His decrees were well considered, and were seldom overturned; they were always delivered in forcible and elegant language, and were remarkable for the perspicuity of the argument by which they were enforced. He used his ecclesiastical patronage with discrimination and kindness. Once when he pronounced a judgment in the House of Lords, which reduced a virtuous clergyman from affluence to penury, he immediately walked to the bar, and, addressing the unfortunate man, said, "As a judge I have decided against you: your virtues are not unknown to me: may I

beg your acceptance of this presentation to a vacant living which I happen fortunately to have at my disposal." It was worth 600*l.* a year.[1]

His bearing towards the bar was courteous and gentlemanlike; and to those members of it who assisted the profession by their learning, but who failed of success in practice, he was a kind and liberal patron. To the suitors he was a favourite judge; for while they admired the patience with which he heard their cases, and the clearness of statement by which he proved that he understood all the circumstances, he generally contrived, when he had to decide against any suitor, to say something to soften his disappointment and to soothe his feelings. His only contribution to legal literature was a "Treatise on English Prisons," containing many useful suggestions for their improvement; which he published in the year he became chancellor.

Though his lordship's public career cannot be regarded with more honour or respect by the present generation, than it was by his contemporaries, yet in his private life there was much to extenuate his failings. In his family he was amiable and affectionate; to his friends, and he had many, he was constant and true; and to his opponents, who varied with his political changes, he bore no malice. He was munificent in his charities at the French Revolution. He gave De Barretin, the ex-chancellor, a house to live in, and allowed him 600*l.* a year till the peace of Amiens. He loved literature and the society of literary men, encouraging and assisting those who needed help. He procured the pensions that Dr. Johnson and Shenstone enjoyed; he recommended Gibbon to the place he held under government, and Maurice to a post in the British Museum; and he overcame the objection made by the benchers of Lincoln's Inn to allow Sir James Mackintosh to deliver his lectures in their hall. In

[1] Basil Montagu's Bacon, xvi. cclii. note *e*.

all his manners and actions he was a complete contrast to Thurlow, who, though hating his rival, was candid enough, on hearing of his death, to allow that "he was a gentleman."

The earl died suddenly at his house at Baylis, between Slough and Salt Hill, on January 2, 1805. His remains were deposited in the crypt of St. Paul's, covered by a stone which simply records the date of his birth and decease. Though married twice, he left no issue. His first wife was Betty Ann, daughter and heir of John Dawson of Morley in Yorkshire. She died in 1781. His second wife was Charlotte, daughter of William, first Viscount Courtenay. His titles and estates devolved upon his nephew, Sir James St. Clair Erskine, Bart., by whose son they are now enjoyed.[1]

## WILLES, JOHN.

CH. C. P. 1760.

*See* under the Reign of George II.

THE family of Willes is one of the most ancient in Warwickshire. In the middle of the sixteenth century they were settled at Newbold Comyn in that county, in the church of which is a memorial of one of them in stained glass dated 1577. The Rev. Dr. John Willes, rector of Bishops Ickington and canon of Lichfield, by Anne, daughter of Sir William Walker, Mayor of Oxford, was the father of two sons, John the future chief justice, and Edward who became in 1743 bishop of Bath and Wells.[2]

John Willes was born on November 29, 1685, and received his education at Lichfield grammar-school. His father died in June 1700; and in the following November he was admitted of Trinity College, Oxford. Entering Lincoln's Inn in January 1708, he was called to the bar by

[1] Lives, by Townsend, Lord Campbell, &c.

[2] Berry's Genealogies, County Berks.

that society in June 1713. He then went the Oxford Circuit, and arrived at the dignity of king's counsel in 1719. In his early life he was much more noted for hilarity and licentiousness than for learning and ability, though he was by no means deficient in the latter. He sought advancement by entering into the career of politics under the patronage of Sir Robert Walpole, and accordingly in the parliament that met in October 1722 he procured a seat for Launceston. In April 1726 he urged upon the lord chancellor his activity in support of the ministry, as a ground for succeeding Sir Clement Wearg in the solicitor-generalship, but without success.[1] He was, however, gratified in the following May with the appointment of second judge in the Chester Circuit; and thereupon vacating his seat for Launceston he was not re-elected; but a vacancy soon after occurring in Weymouth he was returned for that borough. In the parliament of 1728 he represented West Looe; and before its close he was obliged to undergo two re-elections, one on his being promoted to the chief justiceship of Chester in February 1729, and the other on being appointed attorney-general in January 1734. He was again returned for West Looe to the new parliament of 1735, and sat for it till he was advanced to the bench. His speech against the repeal of the Septennial Act in 1734 is the only recorded specimen of his senatorial eloquence, and appears to deserve the praise it elicited.

He was knighted as attorney-general, and filled that office exactly three years: when in January 1737 he was appointed to succeed Sir Thomas Reeve as lord chief justice of the Common Pleas. Over that court he presided for nearly five-and-twenty years, during the whole of which period he was hankering after the Great Seal, which, when it was at last within his grasp, he lost by his own folly. He was in

[1] Lord Campbell's Chancellors, iv. 634.

perpetual expectation that the chancellorship of Lord Hardwicke would be terminated by a change of ministry, and took such measures as he thought would secure him the succession. During the rebellion of 1745 he endeavoured to organise a regiment of volunteers among the lawyers, for the defence of the king's person, of which he was to be the colonel; but if we may believe a satirical song of the time, he never got his commission; and the danger being ended his majesty declined their services. The poet slily concludes with this couplet:

> "If you ask why a judge should attempt the command,
> I'll tell you—To take the Great Seal sword in hand."[1]

When at last Lord Hardwicke did resign, Sir John was designed to take his place, but some objection being made by George II. to give him the sole power, he was obliged to content himself with being the first of three commissioners to whom the Great Seal was entrusted. They held it for seven months, from November 19, 1756, to June 30, 1757, when the Duke of Newcastle's and Mr. Pitt's administration commenced. Sir John was then offered the chancellorship, which he was willing enough to accept, but stipulated that a peerage should be added. This was refused, and he, thinking to obtain his terms by standing out, made this a condition *sine quâ non*.[2] Great then was his confusion and indignation on finding that the ministers had taken him at his word, and appointed the attorney-general, Sir Robert Henley, lord keeper. That his disappointment shortened his life, as Lord Campbell intimates, may be doubtful, inasmuch as he lived more than four years afterwards, and died at the advanced age of seventy-six on December 15, 1761. He was buried in the family vault at Bishop's Ickington.

[1] Communicated by my friend W. Durrant Cooper, Esq., F.S.A., from the Trelawney Papers. Collins' Peerage, iv. 187.

[2] Harris's Life of Lord Hardwicke, iii. 139.

That in the exercise of his judicial functions, Sir John Willes, both as chief justice and first commissioner, showed great learning and ability, the reports of his decisions prove: but out of court he was ambitious and intriguing, joining the different factions as he thought they would promote his views. He had a great enmity against Lord Hardwicke, whom he looked upon as his rival, and as impeding the royal favour: and his lordship had little respect for him on account of his questionable morality, and his indiscreet involvements. Horace Walpole, who was inclined to be one of his admirers, tells a story which shows that even when chief justice he still pursued his old propensities. "A grave person came to reprove the scandal he gave, and to tell him that the world talked of one of his maidservants being with child. Willes said, 'What is that to me?' The monitor answered, 'Oh! but they say it is by your lordship.' 'And what is that to you?' was the reply."[1]

The chief justice married Margaret, daughter and co-heir of — Brewster, Esq., of Worcester; and had by her four sons and four daughters. Edward his second son became a judge of the King's Bench, and is the subject of the next article.

## WILLES, EDWARD.

Just. K. B. 1768.

Smyth, in his Chronicle of the Law Officers of Ireland (p. 144), says that Edward Willes, who was made lord chief baron of the Irish Exchequer in 1757, after his resignation of that office in 1766 became solicitor-general in England, and subsequently a judge of the King's Bench. Other writers have copied or acted upon this incorrect statement. Independently of the improbability of a retired chief baron of one country taking an office at the bar of

[1] Walpole's Memoirs, i. 77.

another, all doubt is removed by an announcement in the "Gentleman's Magazine" (vol. xxxviii. p. 349) of the death of the Right Hon. Edward Willes, late chief baron of the Exchequer in Ireland, in July 1768: at which date, and for nearly twenty years after, the English judge was sitting on the bench at Westminster. The Irish chief baron is said to have been the head of the family of which the chief justice and judge belonged to a junior branch. He was admitted a member of Lincoln's Inn in June 1721, and was called to the bar in February 1726.

The English judge Edward Willes was the second son of Chief Justice Sir John Willes, who brought him up to his own profession, and entered him at the same Inn of Court, Lincoln's Inn, in January 1740, where six years afterwards he was called to the bar in February 1746. Omitting the silly story which Lord Campbell in his life of the chief justice (ii. 278) tells to found his assertion that the son was of slender intellect, as wholly improbable both from the future career of the sufferer, and the kind character of the inflictor of the rebuke, it is enough to say that he acquired the rank of king's counsel in 1756, and that in 1766, five years after his father's death, he was made solicitor-general. On the death of Lord Bowes, chancellor of Ireland, in 1767, attempts were made to confer that appointment upon him; but he was obliged to give way to Lord Camden's friend Mr. Justice Hewitt, and content himself with the latter's seat in the King's Bench, to which he was promoted on January 27, 1768. Soon after the questions relative to Mr. Wilkes came before the court, exciting the public to an intense degree. The judges were unanimous in their opinion on the various points raised in his favour, and though they were then charged with corrupt bias, calmer times have confirmed their judgment. In the Dean of St. Asaph's case Mr. Justice Willes dissented from the other judges, and his declaration

that juries had the right to give a general verdict was one of the causes which led to the passing of Mr. Fox's libel act.

Mr. Justice Willes did not accept the usual honour of knighthood. He outlived all his first colleagues except Lord Mansfield, and after nineteen years of judicial life, unmarked by any other peculiar characteristic, except a certain flippancy of manner, and a neglect of costume, he died on January 14, 1787, and was buried at Burnham, in Berkshire. By his wife Anne, daughter of the Rev. Edward Taylor of Sutton, Wilts, he left three sons, one of whom became a police-magistrate for Westminster, and another is now represented at Astrop House in Northamptonshire.[1]

## WILMOT, JOHN EARDLEY.

Just. K. B. 1760. Ch. C. P. 1766.

*See* under the Reign of George II.

The antiquity of the family of Wilmot or Wilymot, as it was anciently called, extends beyond the Conquest. It was settled at first in Nottinghamshire, and afterwards in Derbyshire; and, among other persons of repute belonging to it, was Robert Wilmot of Chaddesden, who was the father of two sons—Edward, the ancestor of the baronets of that place, and Sir Nicholas a distinguished serjeant-at-law in the reign of Charles II. The latter was grandfather of Robert Wilmot of Ormaston in Derbyshire, who by Ursula one of the five daughters and coheiresses of Sir Samuel Marow of Berkswell in Warwickshire, Bart., had two sons, both of whom gained great reputation, one as a statesman, and the other as a lawyer. Robert Wilmot, the eldest, became secretary of the lord-lieutenant of Ireland, and was rewarded with the

[1] 4 Burrow, 2143; 1 Term Reports, 551; State Trials, xix. 1091, 1123, xxi. 1040.

baronetcy (of Ormaston) in 1772; and John Eardley Wilmot, the younger son, was the future chief justice.

He was born on August 16, 1709, at Derby; in the free-school of which town he received his first instruction. He was then placed under the Rev. Mr. Hunter of Lichfield, where he numbered Samuel Johnson and David Garrick among his schoolfellows, and where no less than four of his contemporary judges were educated. He next was removed to Westminster school, and afterwards to Trinity Hall, Cambridge. His great ambition was to become a fellow of that society, and to devote himself to the Church; but, in obedience to his father's wish, he adopted the profession of of the law, and in December 1728 was entered at the Inner Temple. Throughout his pupilage he pursued his studies with avidity; and in his future life distinguished himself as much by his love of classical literature as by his eminence in legal knowledge.

He was called to the bar in June 1732, and for many years confined himself principally to country practice—with occasional attendance on the London courts, and in the House of Commons on contested elections. In the latter arena Horace Walpole tells us that "he was an admired pleader, but being reprimanded on the contested election for Wareham with great haughtiness by Pitt, who told him he had brought thither the pertness of his profession; and being prohibited by the speaker from making a reply, he flung down his brief in a passion, and never would return to plead there any more." The same lively author describes him as "a man of great vivacity of parts, and loving hunting and wine, and not his profession."[1] Though his merits were so conspicuous as to gain the esteem of Sir Dudley Ryder and Lord Hardwicke, yet public life was so distasteful to him that he not only declined the offer of a silk gown, but resolved on

[1] Memoirs of George II. vol. ii. p. 107.

retiring entirely to his native county; and in 1754 made a farewell speech in the court of Exchequer. He was not long however allowed to enjoy his repose. The death of Sir Martin Wright soon after occasioned a vacancy which Mr. Wilmot was immediately called upon to fill, and notwithstanding his disinclination he was persuaded by his friends and the demands of an increasing family to accept the offer. He was accordingly sworn in as a judge of the King's Bench on February 11, 1755, and at the same time knighted.

Nothing can show more clearly the high estimation in which he was held than his being appointed on the resignation of Lord Hardwicke, although the junior judge upon the bench, one of the three commissioners to whom the Great Seal was entrusted on November 19, 1756, and who held it for upwards of seven months, till June 30, 1757. So ably did he perform his duties in the office that it was confidently reported that he was likely to be appointed lord keeper. On hearing this rumour he expressed his repugnance to his brother in these words: "The acting junior in the commission is a spectre I started at; but the sustaining the office alone, I must and will refuse at all events. I will not give up the peace of my mind to any earthly consideration whatever. . . . Bread and water are nectar and ambrosia, when contrasted with the supremacy of a court of justice." While engaged as lord commissioner he still went the circuit, and in the spring assizes of 1757 he had a narrow escape of his life by the falling of a stack of chimneys through the roof of the court at Worcester. Several persons were killed by the accident, but the judge, though his clerk who was sitting under him was one of the victims, escaped without injury.

By an epitaph which he composed for himself it is evident that he contemplated his retirement from Westminster Hall after a service of ten years;—and when that period had

expired he endeavoured to obtain a removal to the quiet post of chief justice of Chester. The negotiations however failed;—but ere another year had passed his hopes of retirement were to be severely tested. The elevation of Lord Camden to the chancellorship made a vacancy in the office of chief justice of the Common Pleas, and the government without hesitation offered Sir Eardley the place, feeling that, from his learning, his judgment, and his character, he was the only fit and proper person to fill that station. Acting upon his often expressed and still indulged wish for retirement, he endeavoured to divert the offer, and when it was made actually wrote a letter declining it; but at the earnest persuasions of his friends and particularly of his colleague Sir Joseph Yates, with whom he always lived in cordiality and friendship, he was at last induced reluctantly to give way; and he was sworn lord chief justice of the Common Pleas on August 21, 1766. The appointment was universally approved, and was especially satisfactory to the legal world, which both admired and respected his talents and urbanity.

The publication of No. 45 of the North Briton occurred during his judicial career, and his conduct in regard to it fully exemplified his impartiality. On the part of the Crown, as a judge of the King's Bench, in pronouncing judgment against John Williams, the publisher, he unhesitatingly stigmatized the libel as most scandalous and seditious, most malignant and dangerous to the state; and as chief justice of the Common Pleas on the appeal to the House of Lords, he delivered in a learned speech the unanimous opinion of his colleagues and himself, in confirmation of the judgment and sentence pronounced against Mr. Wilkes, the author of the libel.[1] On the other hand, on the part of the people, his summing up in the action brought by Wilkes against Lord Halifax, is a bold exposure of the illegality of general war-

[1] State Trials, xix. 1127.

rants, with the expression of his opinion that the plaintiff was entitled to liberal damages for the injury he had suffered by that issued in his case.

The Great Seal was pressed upon him on the resignation of Lord Chancellor Camden; and again on the death of the Hon. Charles Yorke; and also during the subsequent commission; but he showed the sincerity of his wish for privacy, by refusing the proffered honour; and took advantage of the last opportunity to tender his resignation of the office which he held. His retirement took place on January 24, 1771, the day after the appointment of Lord Apsley as chancellor; and, notwithstanding his repugnance to a pension, the king insisted that he should receive one of 2400*l.* a year as a mark of approbation for his exemplary services. In return for this liberal allowance, he thought it his duty to assist in hearing appeals to the Privy Council, till his increasing infirmities obliged him wholly to retire in 1782. He lived for ten years more, and dying on February 5, 1792, at the age of 82, he was buried in Berkswell Church, in Warwickshire.

The "Opinions and Judgments" of Sir Eardley, and an affectionate memoir of his life, were published by his son; and both contain ample evidence to prove that the judge was not only an erudite lawyer, but a good man; that he was devoted to his duties as an advocate, a judge, and a Christian; that his merit solely raised him to the places which his modesty and diffidence would have declined; and that in the private relations of life — as a friend, a husband, and a father — he acquired the love and veneration of all around him. One little incident affords a faithful exemplification of his disposition. A friend, relating the particulars of an injury he had received from a man high in office, concluded his statement by asking the judge if it would not be "manly" to resent it. "Yes," said Sir Eardley, "certainly it would be *manly* to resent it; but," added he, "it would be *godlike* to forgive it."

By his marriage with Sarah, the daughter of Thomas Rivett, Esq. of Derby, he had issue three sons and two daughters. The second son, who was the author of the memoir, became a Master in Chancery, and was the father of Sir John Eardley Wilmot, who received a baronetcy (of Berkswell) in 1831; being the third baronetcy in the family. One of his daughters married Lord Eardley. [1]

## WILSON, JOHN.

JUST. C. P. 1786. COM. G. S. 1792.

JOHN WILSON is regarded as one of the worthies of Winandermere. He was born on August 6, 1641, at the house in Applethwaite, where his father, whose christian name he bore, resided. He matriculated at Peter House in the University of Cambridge; and while an undergraduate distinguished himself by a very able reply to an attack which Dr. Powell, Master of St. John's, had made upon the "Miscellanea Analytica" of Dr. Waring, the Lucasian Professor of Mathematics.[2] He took his legal degree at the Middle Temple in January 1763, after a pupilage of three years; and soon, by his talents and industry, gained a considerable practice. Dunning thought so much of him, that he employed him to answer many of his cases, and several of the opinions signed by Dunning were really the opinions of Mr. Wilson. He soon became a leader himself; and, to his encouragement and that of Sir James Mansfield, is to be attributed the continuance in Westminster Hall of that great luminary of the law, John Scott, Earl of Eldon; who, not succeeding so rapidly as he expected, had determined in 1780 to retire to the country, when Mr. Wilson, earnestly advising him to give up the idea, generously offered to insure him 400*l.* the next year.[3] In three years Mr. Scott received

[1] Memoirs of Sir J. Eardley Wilmot, by John Wilmot, Esq.
[2] Nicholls' Lit. Anecdotes, ii. 717. [3] Twiss's Eldon, i. 123.

a patent of precedence, the precursor of that splendid career that justified the prophetic vision of his friends.

Mr. Wilson, keeping entirely aloof from politics, never sought a seat in Parliament; and for his professional merit alone was selected by Lord Thurlow, on November 7, 1786, to fill the vacant seat in the Common Pleas, occasioned by the death of Mr. Justice Nares; receiving in the same month the honour of knighthood. He was so highly respected as a judge, and performed his duties with so much patience and discrimination, that he was, on the retirement of Lord Chancellor Thurlow, appointed one of the commissioners of the Great Seal; and held that important post for seven months, from June 15, 1792, to January 28, 1793, when Lord Loughborough became lord chancellor. Before the end of that year he was seized with paralysis, and died in the 53rd year of his age, on October 18, 1793, at Kendal, where, on his tomb, is an inscription from the pen of Bishop Watson, eloquently descriptive of his merits as a lawyer, his uprightness as a judge, and his worth as a man.

Marrying so late in life as 1788, the daughter of Mr. Serjeant Adair, he left a small infant family.[1]

## WOOD, GEORGE.

B. E. 1807.

*See* under the Reign of George IV.

## YATES, JOSEPH.

Just. K. B. 1764. Just. C. P. 1770.

From an old county family of Lancashire this eminent judge descended. His grandfather and father, both named Joseph Yates, resided at Stanley House in that county, in which the former was a magistrate, and the latter high

[1] H. Blackstone, 211; Gent. Mag. lxiii. 965, lxiv. 1051.

sheriff in 1728. In 1730 he became possessed, under the will of a relation, of the estate of Peel Hall, near Manchester, with its large beds of coal, involving so great an expenditure, that his means were eventually reduced, and his affairs seriously embarrassed. By his marriage with Ellen, daughter of William Maghull of Maghull, he had two sons, the younger of whom was the future judge.

Joseph Yates was born in 1722, and received his early education in the grammar-school of Manchester, where his father had a house. He then went to Queen's College, Oxford, where he could not have continued, owing to his father's difficulties, had it not been for the timely assistance of his relative, Mr. Serjeant Bootle, who generously stepped forward, and enabled him to finish his course at the University, and to pursue his legal studies. For this purpose he entered Staple Inn, on the south window of the hall of which society his arms may still be seen. From Staple Inn he removed to the Inner Temple, and practised as a special pleader from Michaelmas 1748, till July 1753, when he was called to the bar. Here he rapidly rose in reputation, and though not dignified with any title in the Courts of Westminster, acquired a practice so large that his fee book records a profit of 2313*l.* in one year. He had general retainers for the corporation of Liverpool, for Greenwich Hospital, and for the East India Company; and was employed by the Crown in the militia riots of 1758, and in the proceedings against John Wilkes in 1763. But the only legal rank which he received before his elevation to the bench, was that of king's counsel for the Duchy of Lancaster, in June, 1761. His labours required frequent and intense application; and when it became burthensome, he was in the habit of relieving himself by reading a few pages in Dean Swift's works, which always sent him back cheerfully to his studies. On some extraordinary success in 1760,

he was presented with a silver vase, now preserved in the family, bearing the following inscription:—"Jurisconsulto perito, Josepho Yates, ob auxilium insigne, legum cognitoribus præstitum, Grati Clientes, D.D.D."

So remarkable were his legal attainments, that on the death of Sir Michael Foster, he was offered the vacant judgeship of the King's Bench. He at first determined to decline the proffered honour, feeling that, as he had been little more than ten years at the bar, he was too young to be put on the shelf, especially as his professional income was already greater than a judge's salary. His friends, however, by representing that he could not undertake additional business without injury to his health, and pointing out the prospect of a further advance, prevailed on him to accept the office. He received his patent accordingly on January 23, 1764, when the customary honour of knighthood was conferred upon him. In February 1765, the chancellorship of Durham was added. His colleagues in the King's Bench, besides Lord Chief Justice Mansfield, were Sir Thomas Denison and Sir John Eardley Wilmot; by the resignation of the former of whom in 1765, and the promotion of the latter in 1766, Sir Joseph became senior puisne judge of the Court. He ventured sometimes to differ from his noble chief, who chafed so much under any opposition of opinion, that Sir Joseph, to avoid his lordship's covert sarcasms, determined to take the first opportunity to leave his court. This resolution is the subject of strong observation in Junius's first letter to Lord Mansfield. On the resignation of Mr. Justice Clive in February 1770, he induced Sir William Blackstone, for whom the place was designed, to exchange it for the King's Bench. He thus obtained his removal to the Common Pleas, under a new patent, dated February 16, 1770; preferring the quiet of a junior seat in that court to the unseemly contests in which his continuance in the senior place in the

King's Bench seemed likely to involve him. Not long did he enjoy the benefit he anticipated. Within four months his mortal career was terminated. He died on June 7, 1770, of a neglected cold falling on his chest; and was buried at Cheam, in Surrey, where he had a house.[1]

He was universally acknowledged to be a most able and learned judge; and the points on which he differed from Lord Mansfield were subsequently recognised as good law, and confirmed by the House of Lords. Of his inflexible integrity a story was circulated, that he returned a letter brought to him from the king unopened; the minister having already tampered with him in vain previous to some trials involving the rights of the crown. Though the precise details of this transaction are not known, there seems too good reason to believe that the fact occurred, as it was publicly stated in parliament by Alderman Townshend soon after the judge's death; and, though repeated by another speaker, remained uncontradicted by any member of the administration.[2] It tells well however for Lord North, that soon after the death of Sir Joseph he called on Lady Yates, and after saying much that was most gratifying to her and complimentary to the deceased, delicately inquired into her circumstances. The visit concluded by his saying that "the widow of so great a man ought not to be left with so small a provision;" and, regretting that the funds at his disposal would not admit of his offering more, asked whether a pension of 200*l.* a year would be worth her acceptance:—a graceful act in the government, and a flattering testimony of the estimation in which he was held by a court, whose temptations he had the virtue and the courage to resist. Another, less delicate, but more significant, proof of his general reputation, appeared at the time in the following lines:

[1] Gent. Mag. xxxv. 147; Blackstone's Rep. 450, 681, 719.
[2] Parl. Hist. xvi. 1228, 1295.

"Hadst thou but ta'en each other judge,
Grim Death, to Pluto's gates,
Thou might'st have done 't without a grudge,
Hadst thou but left us Yates."

In his private life he was most amiable and considerate. He commenced his career under great pecuniary difficulties, and considerable feebleness of constitution, but from the time of his leaving college he was able by his industry to contribute largely to his father's comfort, and the advancement of his brother's children. With his colleagues on the bench he lived in the greatest cordiality, and to his friendly influence over Sir Eardley Wilmot in inducing him to accept his promotion, we have already alluded in our memoir of the chief justice. One of his weaknesses was a great attention to his dress; by which he acquired the character of being "a fine gentleman." He used to tell with great glee, that once on returning to his chambers in full dress, he met at the door an attorney with a large bundle of papers, who asked him if he could inform him which were Mr. Yates's chambers. He replied, that these were, adding, "I am Mr. Yates." The attorney, having eyed him from head to foot, put his papers under his arm and wishing him good evening walked away; and Mr. Yates never saw him or the papers again. This peculiarity was of course a subject for fun to the circuit wags. Among other stories invented was one that he and another judge had been traced to an "academy where grown gentlemen were taught to dance," and that one of them was found under the hand of the master practising his steps, and the other sitting in the stocks.

At his father's decease he succeeded to the estate of Peel Hall; and at his own he left one son and one daughter, by his wife Elizabeth daughter and coheir of Charles Baldwyn of Munslow in Shropshire; a lady of very ancient Scotch descent. She was an extremely ingenious person; and

having produced some beautiful pictures in wool, Sir Joshua Reynolds admired them so much that he persuaded her to teach the art to Miss Linwood, saying it would make her fortune:—a prophecy soon after fulfilled. Lady Yates subsequently married Dr. John Thomas, Bishop of Rochester, whom she also survived, and enjoyed her pension till her death in 1808.[1]

## YORKE, CHARLES.

LORD CHANC. 1770.

THAT the attainment of the object of our ambition does not always secure our happiness, we have a melancholy proof in the life of the Hon. Charles Yorke. With all the advantages naturally consequent upon his father's position, added to his own extraordinary talents and splendid abilities, he successively filled the high offices of solicitor and attorney-general, and his elevation to his father's seat was deemed a certainty. But fickleness and irresolution were points of his character. He twice resigned his office; and when at last the Great Seal was offered to him, he was induced to accept it, against his own convictions, and against every feeling that should have prompted him to reject it. The consequence was that he felt so strongly the disapprobation of his friends, that he died three days after he had received it, leaving his memory darkened not only with the imputation of deserting his party for place, but with doubtful reports of his end.

The Hon. Charles Yorke was the second son of Philip, Earl of Hardwicke, by his countess, Margaret, daughter of Mr. Charles Cocks of Worcester, and widow of Mr. William Lygon of Maddresfield. He was born in January 1722,

[1] To the Judge's grandson, Joseph St. John Yates, Esq., of Wellbank, Cheshire, judge of the County Court, I am gratefully indebted for some of the principal details in this sketch.

while his father was solicitor-general. At about ten years of age he was sent to a private school at Hackney, from which in 1739 he was removed to Corpus Christi College, Cambridge. At both he was an earnest and successful student; and at the latter he gave early proofs of his classical attainments and his refined taste, by his contributions to the "Athenian Letters," printed for private use in 1741. His father, destining him for his own profession, had entered him at the Middle Temple in December 1735, but upon his taking his degree he was transferred to Lincoln's Inn at the end of 1742, and assiduously availed himself of his father's experience by listening to his decisions in court, and hearing their explanations in private; as well as by a diligent study of the ordinary books of legal instruction. In the beginning of 1745, while yet a student, he issued an anonymous publication, entitled "Considerations on the Law of Forfeiture," in support of his father's bill to attaint the Pretender, then daily expected to land; in which he so ably illustrated the constitutional argument by classical allusions, that the treatise was greatly admired and went through several editions. The author was called to the bar of Lincoln's Inn on February 1, 1745–6.

The son of a chancellor, with a capacity to improve the advantage, was not likely to be long unemployed; and consequently we find him pleading successfully in the very next year before the House of Lords, and receiving the praise of his father, who as his brother says "is not flippant in his commendations." He became his father's purse-bearer, and was made one of the clerks of the crown in Chancery. In 1747 he was returned for the family borough of Reigate, which he continued to represent in all the subsequent parliaments till that of 1768, when he was elected for the University of Cambridge. In the Parliamentary Reports there are few specimens of his speeches, but contemporary

letters and records prove that he took a prominent part in the debates. Amid all his legal and senatorial avocations he found time for intellectual relaxations, and for the enjoyment of friendly intercourse. He kept up a constant correspondence with the President Montesquieu; and with Bishops Warburton and Hurd, for both of whom he exerted his interest.

In 1751 he was appointed to the important office of counsel to the East India Company; and in the next year he narrowly escaped being burnt to death. His chambers in Lincoln's Inn were directly over Mr. Wilbraham's, which caught fire, and Mr. Yorke had barely time to run down stairs almost naked, and take refuge with an opposite neighbour. His whole property was destroyed, including his books and manuscripts, and what was of more importance the valuable collection of state papers left by his great-uncle Lord Somers, which had been deposited with him for examination, and of which only a very small part was saved. Lord Hardwicke became extremely anxious about him in this visitation, as he knew that "his spirits were not of the best and firmest kind;" and wished to do something to encourage him by some permanent provision. An attempt was accordingly made to obtain for him the appointment of solicitor-general, when Sir Dudley Ryder was promoted to the chief justiceship. It was not however successful; but he was nominated soon after solicitor-general to the Prince of Wales, with a patent of precedence. On Lord Hardwicke's resignation of the Great Seal in November 1756, the king promoted him to the solicitorship, as a mark of his approbation of his father's services. Mr. Yorke had at this time so large a practice and so high a reputation that the appointment caused no surprise or jealousy among his brethren. After a few months a new ministry was formed by the junction of the Duke of Newcastle with Mr. Pitt, in which Lord Hardwicke

though without office had great power. On the elevation of the attorney-general, Sir Robert Henley, to the woolsack, his Lordship had the praise of the public for disinterestedness in allowing Sir Charles Pratt to take the place over the head of his son, who nevertheless experienced some disappointment at being passed over. But on Sir Charles's promotion to the presidency of the Common Pleas in January 1762, Lord Hardwicke saw his son invested with the attorney-generalship.

On the secession of Mr. Pitt and the Duke of Newcastle, and the formation of the Bute ministry in the following May, the new attorney-general began to feel his position uncomfortable, and, though tempted with the prospect of the Seal in case of a vacancy (which however did not take place), he wrote seriously to his father of his intention, if he resigned his office, of retiring altogether from the bar. Although his father was at least in latent opposition to Lord Bute's administration, he remained attorney-general during its continuance, and at its termination he advised the prosecution of the famous No. 45 of the "North Briton" published on April 23, 1763; but he had nothing to do with the general warrant on which its fire-brand author John Wilkes was arrested. In the subsequent ministry of George Grenville he defended the king's messengers in the actions brought against them for acting under it; but in subsequent debates he acknowledged the illegality of such warrants. In August 1763 an attempt was made to form a new administration on a Whig basis, and the king had apparently a satisfactory interview with Mr. Pitt; but a sudden and unaccountable stop was put to the negotiation. On the 3rd of November following this failure, Mr. Yorke thought proper to resign his office; and in the debate that soon after took place in the House of Commons he maintained his opinion against that of Chief Justice Pratt. On his quitting office he attended the court

on the outside bar in his stuff gown, although when appointed solicitor-general to the Prince of Wales in 1754, he had received a patent of precedence; deeming probably that that patent was rendered void by his resignation. His brethren of the bar however paid him the compliment of giving him the privilege of precedence and pre-audience over them. He was chosen recorder of Gloucester in 1764 in the room of his father, who had died in March.

On the subsequent death of Sir Thomas Clarke the post of master of the Rolls was offered to him and refused; but he accepted a patent of precedence next after the attorney-general. In the miserable ministerial differences that followed, which resulted in the Marquis of Rockingham becoming prime minister, Mr. Yorke was induced again to accept the office of attorney-general in July 1765, upon the king's promise that he should have the Great Seal in less than a twelvemonth. When however in the following year by another intrigue the ministry was again changed, and Mr. Pitt (now created Earl of Chatham) obliged the king to make Lord Camden chancellor, Mr. Yorke again threw up his office; but kept his lead at the bar with the same success that had ever attended him. The Earl of Chatham soon retiring, the Duke of Grafton became the head of the ministry, against whose measures a strong opposition was formed, in which the Earl of Hardwicke was one of the most zealous; and Mr. Yorke, though taking no very active share, was of course united in the same ranks with his brother. Lord Camden, though chancellor, at length felt obliged to give utterance to his condemnation of the policy of his colleagues, and was accordingly deprived of his office in January 1770. The Duke of Grafton knew not where to look for a successor; the tenure of his power being so frail, that none of his own party, if any were competent, would accept the precarious honour; and among his political antagonists he could

not expect to find one who would not spurn the temptation. The attempt was made on Mr. Yorke, then the most popular lawyer among them; and he had given the duke an absolute refusal. This he had reiterated to the king; but in an evil hour he was induced to have a second interview with his majesty, when by flattery, by pressing entreaties, and even by threats, he was so overborne as at last unwillingly to consent, without making any stipulations for his personal benefit. This occurred on January 17, 1770.

His brother was, as he says, "astounded;" and the opposition were loud in their disapproval; but all observation was soon silenced by the public being overwhelmed by the announcement three days after of his sudden death. It is not to be wondered at that under such circumstances a report should have arisen that he died by his own hand; that it should be circulated with minute details in various publications; and even that it should still be believed by many; though no proof was ever produced that it had any substantial foundation. The evidence on the contrary seems to be,—that no inquest was holden by the coroner; that persons were immediately after the death admitted to view the body; that Horace Walpole (no friend to the family), in a private letter written at the time, states that the death was caused by a high fever and the bursting of a blood vessel; and that on a recent revival of the report the surviving members of the family gave it a distinct and positive contradiction.[1] The subject is too delicate for discussion, which would lead to no useful result. It is enough to say that the melancholy event was to be attributed to his vexation caused by his friends' disapprobation, and to his anxiety how to meet the confusion of the times. The patent conferring upon him the title of Lord Morden, which had been prepared, but had not

[1] Morning Chronicle, May 12, June 6, 1828.

passed the Great Seal, was after his death pressed upon but declined by his widow.

Such was the termination of the aspirations of Charles Yorke. To be the second chancellor of his family was a natural ambition. It was an office to which his undoubted talents, his extensive practice, and the high positions he had held in the profession, entitled him to aim: moreover, in which he would have had the universal suffrage of the bar: and which the favour and even the absolute promise of his sovereign warranted him in expecting. But of a reserved habit, fickle and irresolute, jealous of honour, yet sensitive of the slightest blame, he fell upon times when it was difficult to define the shades of party, and almost impossible to pursue an entirely independent and unexceptionable course. Twice had he accepted, and twice resigned the office of attorney-general, and each acceptance and resignation seemed to be dictated more by personal than political impulses: and at last, partly by flattery, and partly by fear, he was induced to permit the great object of his hopes to be thrust into his unwilling hands, not only against his settled and expressed convictions, but at a time when he was sure to be assailed with the deepest rage of his recent associates, and to risk the more dreaded coldness of his family and friends.

His first wife was Catherine, daughter and heir of the Rev. Dr. William Freeman, of Hammels in Herts. His second wife was Agneta, one of the daughters and coheirs of Henry Johnson of Great Berkhamstead. By each he had issue. Philip, his son by his first wife, became third Earl of Hardwicke by the death of his uncle without issue in 1790, and was himself succeeded in the title in 1834 by his nephew the present peer.

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